



MiningWatch Canada

Mines Alerte

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Mount Polley and the Failure of Compliance

On August 4th of this year, the tailings impoundment at the Mount Polley mine failed, releasing 25 million cubic metres of mine waste and construction material into the watersheds below. Some of the waste backed up into Polley Lake, most of it was dumped into the 10km Hazelton Creek watershed, and some spread downstream into Quesnel Lake.

Investigations into the causes and legal implications of the spill are ongoing, as is monitoring of the impacts. Preliminary water sampling results show increased levels of copper and other metals in the water column, where a plume of fine sediments is moving with the currents in the lake. There is also concern over an increase in the E. coli bacteria in water as residents used to draw drinking water straight from the lake. There are observations of increased algae and weed growth due to the fertilizing effect of phosphorus in the wastes. Researchers from the Quesnel River Research Centre have noted that the impacts of the spill may last decades. (See our August 8 and October 8 posts for additional background.)

Speculation about the cause of the breach includes accusations that there was too much water in the impoundment and that the impoundment was not adequately buttressed as its height was increased to accommodate more waste. As we wait for the conclusion of the technical review and criminal investigations, information that has been revealed by various media investigations and disclosures by the BC government show that there were a number of warnings and red flags raised about the impoundment in recent years. Whether the issues identified in



Former Canada Program Coordinator Ramsey Hart on CBC's Power & Politics, one of many national news programs to interview him about the disaster.

the past are directly related to the spill or not, the response of the BC government to the issues at Mount Polley tells us a lot about how the system of oversight of mining sites works in BC. The situation at Mount Polley is, unfortunately, typical of governments that want to maintain an "open for business" climate and seek to promote compliance with environmental and engineering standards but do little to force companies into concrete action in a timely way.

Shortly after the spill, the CBC reported that the Ministry of the Environment had issued 5 warnings to the company for failing to report issues with the tailings impoundment and

allowing the water level to go higher than was approved. These situations resulted in warnings and advisories but no charges and no public disclosure of the problems. When these issues were put to the Minister of Energy, Mines and Natural Gas, Bill Bennett on the CBC's Power and Politics, he acknowledged that there was an advisory in May 2014 but denied the previous warnings that Imperial had been given.

Former mine employee Gerald McBurney was widely cited in the media (e.g. Global News and DeSmog Blog) criticizing the mine's management and stating that buttressing needed to stabilize the dam had not completed. Another former employee, Larry Chambers, has stated that he was fired after raising safety concerns with the BC Mines Inspector.

The Vancouver Sun's Gordon Hoekstra found a 2010 report on the tailings impoundment that is particularly troubling. The report noted a number of important failings of Imperial's management at Mount Polley including:

- Not reporting a "tension crack" in the tailings dam to the design engineers.
- Not constructing the impoundment to specifications advised by the engineers
- Failing to deposit the tailings in such a way that would create a "tailings beach" around the perimeter as a buffer between the pooled water and the impoundment walls.
- Not conducting the weekly inspections of drainage systems in the impoundment as committed to in their own Operations, Maintenance and Surveillance Manual.
- 40% of piezometers (small wells used to measure water level and pressure in the impoundment) were not operational, despite advice from 2006 to ensure a full compliance of working equipment.

After the 2010 report came to light, Imperial issued a

response noting that it had addressed many of these issues. What it doesn't explain is why it operated in this way for a number of years prior to addressing them.

In 2011, the same engineering firm that wrote the previously mentioned report wrote a letter to the company and the BC government stating that: "The embankments and the overall tailings impoundment are getting large and it is extremely important that they be monitored, constructed and operated properly to prevent problems in the future". Despite the increase in the size of the impoundment --and this warning-- the facility was not inspected by BC in 2010 or 2011.

The "soft on corporations" approach seen at Mount Polley is, unfortunately, not unique in BC. For years regulators have been aware of damaging selenium discharges at Teck's Elk Valley coal operations. While management plans are discussed and measures to deal with the pollution are examined, the company continues to propose and receive permits to greatly expand its operations.

Responses to the Mount Polley disaster from First Nations, NGOs, and the public have appropriately included calls for increased inspections and improved regulations. While these are certainly necessary, to be effective they must also be accompanied by a change in the culture of how our governments deal with compliance and enforcement issues. Greater whistle-blower protection is also critical. The Mount Polley case shows us that technical advice from engineers, operational commitments, and even warnings and advisories from regulators are not sufficient for companies to implement changes in a timely way. Corporations must face much stronger financial penalties, and we need governments that are willing to impose them and that recognise we cannot be "open for business" at any cost.

Do No Harm, Canada – Inter-American Commission on Human Rights Fingers Canada

The Inter American Commission on Human Rights – an independent office of the Organization of American States – has added its voice to a growing list of human rights bodies calling on Canada to prevent mining abuses and hold Canadian companies and state agencies responsible to account.

In a statement released summarizing dozens of hearings heard in late October, the Commission specifically urged Canada – as home to hundreds of mining companies with mining projects throughout Latin America and the Caribbean – to "prevent the multiple human rights violations that can result" from their advancement (emphasis ours). Without naming any other country, it extended this same demand to "host" states in which companies operate, and other home states of transnational corporations.

The Commission cited having heard "cases of violations of the right to life, forced displacement, instances in which water and food sources have been cut off, and violence against leaders opposed to development projects, among other problems." It also heard about negative impacts on "indigenous peoples' rights over their lands and territories, as well as on the rights of communities of African descent and rural and peasant populations," including where "indigenous peoples live in voluntary isolation and initial contact, as well as about other projects

implemented in areas inhabited by indigenous peoples in contact but where their rights to prior, free, and informed consultation have not been respected." (The fact that the Commission stopped short of asserting Indigenous peoples' right to free, prior, informed consent is unfortunate and must have made the Canadian representatives to the OAS feel a little bit better given the government's shameless campaign against this right. Also see here.)

In our own presentation to the Commission on October 28th, we highlighted how the Canadian state itself is implicated in grave Indigenous and human rights violations through its own acts and omissions, given the myriad of ways that it aggressively promotes and protects mining company interests from Mexico to Argentina, in the most deadly of circumstances and in the face of determined community resistance.

We highlighted the case of the Canadian Embassy in Mexico, which played a central role to enable and then defend Blackfire Exploration's mine in Chiapas, even after community leader Mariano Abarca was murdered, after it came to light that the company had been making direct payments to the local mayor in order to repress protests, and after the mine was shuttered on environmental grounds.

Given the Canadian state's activist role on behalf of the

rapacious interests of our bloated mining industry, which regularly leads to serious and lasting harm in communities throughout the region, it is important that the Commission singled out Canada and talked about prevention, not just reparation. While justice is urgently required for the many harms that have already occurred, we need to stop them before they start.

To begin, this means putting respect for Indigenous and collective as well as individual human rights in first place, including respect for those communities – even entire populations – saying no to mining. It also means instituting mandatory corporate and state accountability standards that provide accessible processes, independent fact finding and remedies for harms taking place.

Going further, it's time to stop directing overseas development aid and diplomatic services toward the promotion of large-scale mineral extraction overseas given the systematic harm it is causing; to ensure Crown corporations that provide financing or holding equity in companies have to comply with international human rights obligations; and to end Canada's aggressive promotion of investor protection agreements that, among other things, let them sue governments when they or their courts make decisions intended to protect people and the environment.

More broadly, it is time to seriously question this extractivist economic model that the Canadian state apparatus has been harnessed by industry to promote and advance in many countries, as many communities in the region are doing, questioning its legitimacy, legality and compatibility with their rights and wellbeing.



Jen Moore presents documentation to the Inter-American Commission on Human Rights

Several UN bodies have previously called on the Canadian state to prevent mining abuses and to hold Canadian-registered companies to account.

Witness for the Indefensible: A Cheat Sheet for Kevin McArthur on Tahoe Resources' Tactics to Silence Opposition in Guatemala

Mr. Kevin McArthur, the CEO of Tahoe Resources who came out of retirement after leaving Goldcorp in 2008 to develop the Escobal silver mine in southeastern Guatemala, has been summoned by a District Attorney's office in Guatemala. He has been called to testify about the company's tactics to put down opposition to the Escobal mine, such as through framing leaders on false or trumped up charges.

Just in case Kevin's been spending a lot of time on the golf course lately and hasn't been fully enmeshed in the day-to-day operations of his company's only project, we thought we would put together a cheat sheet for him about the way in which community leaders and their attempts to undertake democratic, peaceful votes about mining on their lands have been criminalized since 2011.

Also, in case Mr. McArthur hasn't read his company's annual filings this year, we've described how Tahoe has been directly involved in militarizing the area around the Escobal mine. Tahoe Resources helped to set up an office in San Rafael Las Flores where the mine is located to help the company "address community issues and oversee security matters". The office is headed by a military coronel and, in the opinion of local community leaders and activists, is a counterinsurgency and military intelligence project.

Background

Since 2011, there have been nearly 90 legal cases filed against peaceful protesters and community leaders opposed to Tahoe Resources' Escobal mine. An incident report dated July 2012 and attributed to Alberto Rotondo - the former security manager for Tahoe Resources who is currently under arrest awaiting trial in connection with violence against peaceful pro-

testers - appears to recommend the implementation of a criminalization strategy against those opposed to the mine, urging "a strategic legal and public media communications campaign to prove the involvement of the groups responsible for these actions, especially the involvement of the Catholic Church so that the authorities are forced to take legal action against them."

Tahoe Resources, with help from the Guatemalan government and the powerful Guatemala Chamber of Commerce has used four main strategies to try to prevent people from opposing the mine.

1. Challenge the legality of municipal referenda

Since 2011, five municipalities neighbouring San Rafael Las Flores where Tahoe has built the Escobal mine have held referenda in which a majority voted against mining activities on their lands. Two lawsuits were filed against the legality of such municipal referenda. In both cases, the Constitutional Court dismissed the cases, finding that citizens have a right to express their views regarding whether or not they are in favour of mining

2. Prevent referenda from taking place at all

While municipal referenda have taken place in municipalities immediately surrounding San Rafael Las Flores, in which tens of thousands have voted against the mine, in San Rafael Las Flores itself, no official municipal referendum has taken place. In this case, the mayor refused to allow it despite a community request, and from late 2011 throughout the first half of 2012, numerous frivolous allegations were made against leaders of the Committee in Defence of Life and Peace of San Rafael Las Flores – the group responsible for promoting the vote. This

includes a complaint filed by a representative of Tahoe Resources' subsidiary on November 20, 2011 alleging kidnapping, terrorism and forceful entry by five leaders of the group. Legal representatives of the committee also faced accusations of violence against women and femicide. As a result, by early 2013, local organizers decided to coordinate referenda at the village level in San Rafael Las Flores. Eight of nine results to date have been overwhelmingly against mining. Representatives of more than half of the communities in the municipality have also signed declarations against the mine. Intentions to carry out further consultations have been stymied by militarization in the area, described in more detail below.

3. Criminalization of social protest against the mine

On September 17, 2012, 31 people were arrested during a peaceful protest. According to the Network in Solidarity with the People of Guatemala (NISGUA), "Community members, many active members in the local Catholic parishes, were charged with terrorism and arson, accusations that were finally thrown out more than six months later when a judge ruled there was insufficient evidence to proceed to trial. Another 26 were detained on April 11, 2013, reportedly on private property and without an arrest warrant. People were protesting at the time because the Ministry of Energy and Mines had just approved the exploitation license for the Escobal project, dismissing without due process over 200 official complaints that local residents had filed against the licence based on their concerns about the potential environmental and health impacts of the mine. All 26 were all freed without charge four days later.

4. Militarization and violence to stifle protests

In June 2012, Tahoe filed a suit against the Guatemalan government stating that protests were hindering its operations

secretly commenced a pilot initiative in San Rafael Las Flores called the "Inter-institutional Group on Mining Affairs" that frames opposition to mining as a threat to national security. The Governmental Accord drawn up to create the group was presented to the General Attorney's office, but never officially published. It states that the group's purpose is "To draw up recommendations, policies, strategies and political, social, economic and security projects for the National Security Commission in order to provide holistic attention to the security problems created by natural resources exploration and extraction." Colonel Ricardo Bustamante, Technical Secretary for the National Security Commission oversees the group. It has a low profile office on the edge of San Rafael Las Flores that was established with the help of Tahoe Resources. Locally, the office goes under a different name: "The Interinstitutional Office for Comprehensive Development." Guatemalan Minister of the Interior Mauricio López Bonilla has remarked, "Its role is to figure out what has failed" and, "We believe as a state, when we attract foreign investment, it is important to provide accompaniment from start to finish." Tahoe Resources refers to it as a "High Level Commission [...] to address community issues and oversee security matters." Guatemalan activists call it "counterinsurgency" and "a military intelligence operation."

That same month, on April 27, 2013, Tahoe's private security group shot and injured seven men who were peacefully protesting outside the mine site. While Tahoe blamed outside influences, Tahoe's head of security, Alberto Rotondo, was arrested as he was trying to leave the country. Rotondo remains under arrest awaiting trial for his alleged role in the attack. On May 2nd, the Guatemalan government imposed a state of siege for about a month in municipalities that had voted against the project. The state blamed delinquency as necessitating this action, but it is widely held that the state of siege was intended



Staff member Jen Moore at an information session with the Guatemalan community, leading up to the initiation of the lawsuit that was filed in Vancouver against Tahoe Resources this past June.

for the communities that had been peacefully protesting the mine project through protests and community consultation processes. Twelve members of the Committee in Defence of Life and Peace of San Rafael had their homes raided by police and military forces, and at least 18 had warrants issued for their arrest. Five were arrested and made to suffer months in jail. All eighteen have had the arrest warrants lifted or were released without charge for lack of evidence.

Tension and a climate of fear persist given ongoing militarization. A military post remains in the area since the stage of siege and the Interinstitutional Group on

and claiming that the State was not doing enough to allow its exploration and construction activities to proceed. The Constitutional Court dismissed the suit in February 2013. Nonetheless, on March 26, 2013, the Guatemalan government

Mining Affairs continues to be present. This, and continued violence have slowed organization of community consultations. Notably, on April 13, 2014, a well-known leader of the Mataquescuintla youth movement against mining, Marilyn

Topacio Reynoso Pacheco, was murdered. She was 16 years old. Her father, Alex Reynoso, a community leader and key representative of the Peaceful Resistance in Defence of Natural Resources of Mataquescuintla, was shot four times and spent weeks in intensive care in the hospital. Alex Reynoso is recog-

nized for his role in organizing a community consultation in this municipality. Guatemalan authorities have yet to arrest anyone in connection with this crime.

(Please see the online version of this article for footnotes.)

Philippine Province's Lawsuit Against Barrick Gold Could End Up in Canada

In August, Catherine Coumans was invited to Marinduque Island in the Philippines to meet with civil society organizations, municipal elected officials, and the elected Provincial Board. The topic on people's minds was a long-running lawsuit pitting the Provincial Board against Canadian mining giant Barrick Gold. The case, filed in the state of Nevada in 2005, is at a crossroads and it may be re-filed in Canada. Marinduqueños sought Catherine's assistance in considering their options.

Catherine participated in four separate meetings with some 140 people in total. The meetings were facilitated by a handout setting out the basic background of the case and the four options facing the Province.

The case was filed with the District Court in Nevada in October 2005 on behalf of the Provincial Government of the Island of Marinduque, Philippines, against Canadian mining company Placer Dome Inc. (PDI). In 2006, Canadian mining company Barrick Gold Corp. acquired Placer Dome and became a party to the lawsuit. The Province brought the case in its sovereign capacity and as *parens patriae* (protector) to all Marinduqueños. The Province asserted that Placer Dome is responsible for serious environmental degradation to Marinduque caused by nearly three decades of mining, with consequent economic damages and impacts to the health of people living in the vicinity of the mine and its waste. The Marcopper mine was partly owned, and operated, by Placer Dome. The Province sought an unspecified amount of damages (including exemplary damages, interest and attorneys' fees) and orders from the District Court requiring PDI to complete an environmental clean-up of affected lands and water systems (including the reintroduction of harmed species into the restored environment), repair the deteriorating mine structures, and create and fund environmental and medical monitoring.

In February 2011, the Nevada district court judge dismissed the case on the basis of *Forum non Conveniens* (that the US is the wrong jurisdiction to hear the case), arguing that

Canada is a more appropriate forum (Barrick is headquartered in Toronto). The judge noted that if the Province re-filed the case in Canada, he would impose conditions favourable to the Province including that: 1) Barrick cannot ask for dismissal of the case from Canada based on *Forum non Conveniens*; 2) Barrick has to agree not to seek dismissal on the basis of statutes of limitations post October 4, 2005, when the case was originally filed; 3) Barrick must admit that the Canadian legal system permits monetary damages, as well as equitable relief.

At this juncture the parties agreed to stay proceedings and attempt mediation to seek a settlement on which they could agree. Between 2011 and 2014 mediated settlement negotiations took place. In 2013, Barrick presented the Province a settlement offer that raised serious concerns expressed publicly in joint resolutions and petitions by many Marinduqueños, including elected officials and provincial board members. Concerns included a settlement offer that fell far below the amount needed to clean up decades of environ-

mental damage, and restrictions on the use of funds, including a prohibition on using the funds to clean up ecosystems contaminated by mine waste.

Barrick did not address concerns of the Province. After numerous deadlines were extended without a settlement, the Nevada Supreme Court lifted the "stay" on the court proceedings in July of 2014. The Province's appeal is now proceeding before the Nevada Supreme Court. The Province is arguing that the case remain in Nevada, or, if it is dismissed, that it be dismissed to the Philippines with conditions similar to those imposed on Barrick by the district court of Nevada in 2011.

If the Supreme Court of Nevada upholds the lower court ruling, the Province will have the opportunity to re-file the lawsuit in Canada. While in Marinduque, Catherine was asked at her meeting with the Provincial Board to assist the Province in seeking legal representation in Canada in case suit is dismissed in Nevada in favour of Canada.

Federal Government Ignores First Nations and Public Input on Environmental Assessment – Its Own Legislation Makes It Hard Not To

In mid-July, the Minister of the Environment, Leona Aglukkaq bent to the desire of BC to go it alone on the environmental assessment of another major resource development proj-

ect – in this case, the proposed Ruddock Creek Lead-Zinc Mine.

On May 30, the Canadian Environmental Assessment Agency posted a request for public comment on whether there



should be a federal review of the project and whether the federal government should accept BC's request to substitute the BC process for the federal process.

Responses to the consultation process were overwhelmingly in favour of a federal assessment and against the substitution. I obtained copies of the submissions (they are public documents) and reviewed the thirty comments that were filed (in addition to ours). Only 3 supported substitution. We and ten others explicitly cited a lack of confidence in the BC assessment process as an important reason for the feds to stay involved. The example of BC's acceptance of the now twice rejected Prosperity Gold-Copper Mine was used as an example of why people don't put much confidence in the BC process. The First Nations' submissions also noted the importance of having the federal government at the table as they have primary responsibility for relationships with Aboriginal peoples.

A range of concerns about the project were expressed. The First Nations noted their unextinguished Aboriginal Rights and Title to the area. Potential impacts on the Adams River Watershed and the Pacific salmon populations that inhabit it were the most common concerns but impacts on the South Mountain Caribou and other wildlife were repeated in several submissions.

The submissions appear to have had no effect. This is not that surprising given the Harper government's track record but it's also hard to imagine how comments opposing substitution could have an impact given Conservatives re-wrote the Environmental Assessment Act in 2012. The changes to the Act and an agreement with BC allow, and practically require, the feds to step away from their responsibilities for environmental assessment if asked to do so by a province.

While most of our environmental legislation gives consid-

erable discretionary authority to the Minister, CEEA 2012 is strict on substitution: it includes an "obligation" that the Minister must accept a substitution request if a province meets certain general criteria. (Sec 32) A case can be made for failure to satisfy the criteria but the current federal government is more than happy to concede. This is the 8th request from BC to be granted, and none have been turned down. (These include one other metal mine, four coal mines and two Liquefied Natural Gas (LNG) terminals.)

It is important to remember that the Ruddock Creek project is on unceded Secwepemc territory, and is subject to Aboriginal Title. Given the recent decision from the Supreme Court of Canada in the *Tsilhqot'in* case, the province, federal government and proponent (Imperial Metals) ought to reconsider the approach taken with this substitution request and reflect on whether ignoring the input of First Nations is a wise move. According to the Supreme Court:

[92] Once title is established, it may be necessary for the Crown to reassess prior conduct in light of the new reality in order to faithfully discharge its fiduciary duty to the title-holding group going forward. For example, if the Crown begins a project without consent prior to Aboriginal title being established, it may be required to cancel the project upon establishment of the title if continuation of the project would be unjustifiably infringing...

[97] Governments and individuals proposing to use or exploit land, whether before or after a declaration of Aboriginal title, can avoid a charge of infringement or failure to adequately consult by obtaining the consent of the interested Aboriginal group.

No Small Coup: The Canada-Honduras Free Trade Agreement

There was no doubt that the Canada-Honduras Free Trade Agreement would be rushed through the Senate and receive Royal Assent before parliament recessed in June. Five years ago, however, – before then-Honduran President Mel Zelaya's back door was shot open and he was flown to Costa Rica in his pyjamas in a military-backed coup – such a trade pact was not so sure.

Over the course of Zelaya's mandate and under pressure from civil society groups, Zelaya had gradually been making progressive policy shifts. In the mining sector, this included ratifying a moratorium on new mining projects, in place since 2004, and taking steps to draft a new mining bill that incorporated civil society demands, including a ban on open-pit mining.

It took the June 28, 2009 coup – plus tacit support from Canadian and US governments, who turned a blind eye to targeted repression against broad opposition to the coup and endorsed the profoundly corrupt regime; the shredding of Honduran institutions; and the terrorizing of Honduran society – to get where we are today.

Today, thanks to Canadian lobbying efforts and financial support from 2010 to 2013, Honduras also has a new mining law that has lifted the nine-year moratorium and unleashed a wave of violent repression for which communities are paying a high price.

The Honduran Accompaniment Project (PROAH) reported last week that priests and international human rights companions were beaten and threatened with guns on July 3rd. The priests and other members of the community Nueva Esperanza in the department of Atlántida have faced death threats and violence, including from representatives of the Honduran Minerales Victoria mining company, the National Police and others, as a result of the community's peaceful and legitimate opposition to an iron ore mine project. The Inter-American Commission on Human Rights (IACHR) issued precautionary measures for the two priests and sixteen community members, but they still lack adequate protection.

PROAH also reported that 38 people from the Indigenous Tolupan community of San Francisco de Locomapa in the department of Yoro have been issued precautionary measures by the IACHR, after three community leaders were murdered last August. According to PROAH, the alleged killers remain free despite warrants for their arrest and have been intimidating people opposed to an antimony mining project.

In May, the Honduran Centre for the Promotion of Community Development (CEHPRODEC) issued a statement condemning the brutal murder of community leader, Rigoberto López Hernández, in Santa Cruz, in the department Santa Barbara. Rigoberto was found dead with his tongue cut out. His assassination is understood to be a message to his community to

shut up about their opposition to an iron ore project over potential damage to local water supplies.

Environmental activist Carlos Amador, from the Siria Valley Environmental Committee, who regularly speaks out about the negative impacts of mining on the environment and health based on experiences with Goldcorp's San Martín mine, has reported being followed by unknown individuals and is also in danger.

Further, Amnesty International has warned that the Committee of the Families of the Detained and Disappeared of Honduras (COFADEH), which has accompanied mining-affected groups and denounced the State of Honduras for "not adopting effective measures to dissuade insecurity and implement protective measures," has been facing a range of threats and attacks.

It is in this context that Liberal and Conservative Members of Parliament and Senators overwhelmingly – and even enthusiastically – approved the Canada-Honduras Free Trade Agreement. In a rush evening session of the Senate Standing Committee on Foreign Affairs and International Trade on June 12th, Liberal Senator Dennis Dawson stated that the decision was made even before the final hearing:

"[As I said] this afternoon, [...] with all its flaws and with all the flaws that this government might have on other issues, and with all the flaws you can give to the Honduras government, we think that, in the scale of important things for Canada, because of companies like Gildan and companies that are investing in Honduras and helping the Honduran economy – and helping the Canadian economy at the same time – we decided that we are supporting this bill."

Despite the rhetoric about benefits to Honduras, on the

trade side, benefits are expected to be slim, favouring firms like Gildan Activewear. On the investment side, Canadian mining companies will be able to resort to costly international arbitration and sue the government of Honduras if it makes any decisions that they do not like.

We have seen examples of mining companies resorting to such arbitration in other cases where there is broad opposition to their projects and where government or court decisions find against them, including in the case of Infinito Gold against Costa Rica and Pacific Rim Mining (now OceanaGold) against El Salvador.

Currently, mining firms enjoy strong support from Honduran authorities and agencies. But Honduran communities and civil society organizations have not given up their tenacious fight to protect their lands, water and health – despite the risks to themselves – that could still put a dent in future mining plans. In March, for example, El Negrito, in the department of Yoro, became the first municipality to declare itself free of mining.

However, this trade agreement was not decided on in June. It has been on its way ever since the coup five years ago, since which time the Canadian government has been the most consistent supporter of the Honduran regime, unmoved by the escalation of violence, the dismantling of the justice system, the deepening corruption, and profoundly undemocratic policy-making. This is no small coup. Canada is taking advantage of a regime change that is disastrous for millions of Hondurans, but highly convenient to Canadian corporate interests, providing a further example of just how far the Canadian government is willing to go to protect them. Hondurans – and Canadians – deserve much better.

Guilty. Tribunal Finds Canadian State Shares Responsibility for Mining Injustices in Latin America

By act and by omission, the Canadian state has been found guilty for its role in human rights violations in Latin America as a result of its efforts to spur, sponsor and protect Canadian mining investments abroad, along with five Canadian mining companies.

From May 31st to June 1st, an expert tribunal gathered in Montreal for the first ever Permanent Peoples' Tribunal (PPT) in Canada. The PPT is an international initiative established in 1979 to give visibility to underreported human rights violations "where national and international justice systems are found to be incapable of ensuring that rights are respected." Some forty organizations from Quebec and Canada supported this PPT session on Canadian mining in Latin America, including MiningWatch Canada.

Hundreds of mining conflicts are taking place across Latin America, many in connection with Canadian companies that dominate the globalized industry. The PPT observed that the root of many conflicts, is that mining projects tend to be "undertaken without respect for the right of self-determination of affected peoples and for the right of people to define for themselves their ways of life and their future." Mining-related abuses almost always go unaddressed. The responsibility for these violations is shared between mining corporations, the states where abuses occur and Canada, state of origin for 75% of the

world's mining companies. These companies find our lax laws, stock exchanges, diplomatic supports and willingness to turn a blind eye to abuses all highly convenient.

Over two days of hearings, the tribunal considered thirteen accusations against Canadian mining companies and the Canadian state.

On May 30th, witnesses testified about serious human rights violations in connection with the operations of Blackfire Exploration in Chiapas, Mexico; Excellon Resources in Durango, Mexico; Tahoe Resources in Guatemala; Goldcorp in Honduras; and Barrick Gold in Chile.

On May 31st, testimonies examined Canadian political, diplomatic, economic, and financial supports to the Canadian mining industry abroad, in addition to the ways Canadian foreign policy upholds the impunity of Canadian mining corporations when they are implicated in abuses.

The companies were all found culpable. Additionally, the PPT stated in its preliminary verdict delivered on June 1st that the Canadian state has "failed in [its] obligation to protect human rights, to prevent and sanction violations, particularly those related to Canadian mining companies."

"The Permanent Peoples' Tribunal finds that Canadian mining expansion in Latin America would not have been possible without the promotion and direct involvement of the

Canadian state to uphold the mining industry through diverse political activities and government programs. Canadian state intervention has taken various forms. First, through political support and meddling in the legislative processes of host states. For example, through inappropriate interference in the reforms of mining and environmental legislation, diplomatic lobbying, support for companies' social projects and negotiating investment agreements that protect Canadian investments abroad.

"Second, the Canadian state has also provided economic and financial support channeled through the Export Development Corporation and the Canadian Pension Fund Investment Board. It has also failed to ensure transparency in the regulation of the Canadian stock exchanges, installed favourable tax regimes, and supported trade missions, among other initiatives.

"Finally, the Canadian state has also imposed or tolerated barriers to justice in Canada for individuals and communities affected by the activities of Canadian mining companies."

"...In the case of the Canadian state, it is responsible through its actions when it stimulates the presence of Canadian mining companies in other countries through political, economic, financial and diplomatic support; when it tolerates or covers

up human rights violations that companies are perpetrating; or when it denies access to effective mechanisms to protect victims from these violations.

"The Canadian state is responsible by omission when it abstains from adopting measures, or from requiring that Canadian mining companies undertake measures to prevent or remedy human rights violations."

During debate in Parliament in early June, Conservative MP Randy Hoback argued that Canada lacks jurisdiction to address abuses overseas. But its responsibility to take action is inescapable, concludes the tribunal:

"The international promotion of Canadian trade and investment cannot ignore the supremacy of human rights as established in international law; and, least of all allow that favourable conditions for the promotion of private interests be established at the expense of human rights in Canada, Latin America or anywhere else."

The full verdict is being released on December 10, 2014 at: www.tppcanada.org.



YES! I want to help provide mining-affected communities with the support they need – and make the mining industry accountable.

Please direct my contribution to:

- MiningWatch Canada** to press governments to make crucial changes to law and policy. I know I will not receive a charitable donation receipt.
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