

Guatemala: “The Rape of Mother Earth” Marlin Gold Mine

A classic example of the mega-projects that destroy the environment and leave indigenous peoples feeling bitter and pillaged.

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A lake of toxic industrial waste has formed on the valley floor. It includes cyanide, used in the extraction of gold from the mine, which is thought to have polluted the groundwater. → D.B.

Poverty

An estimated 50-percent of the population live below the poverty level and 15-percent live in extreme poverty. Half the indigenous population rely on agriculture for survival and over 60-percent of people in rural areas are illiterate.

On a good day, when the narrow road is not crowded with traffic, it takes nearly three-hours to cover the 50-kilometres from San Marcos to the Marlin gold and silver mine at San Miguel Ixtahuacan.

We are driving through the altiplano, or highlands, of western Guatemala, around 30-kilometres from the Mexican border and 350-kilometres northwest of the capital, Guatemala City.

The road is in relatively poor repair. Twisting and turning through spectacular mountain countryside, it is littered with the debris of fatal accidents.

Terraced farms are carved into the hillsides. In their small-holdings subsistence farmers grow onions, corn, beans, carrots, cabbages and potatoes.

In roadside hamlets and on hills, cleared of pine and cypress trees, there are simple single-story houses made of mud adobe bricks, with tin roofs. Other houses of the same style are made of wood, a few of concrete breeze blocks.

The people here are Maya. This is their land and last refuge.

Alongside their Christianity, and despite centuries of oppression and genocide, they still hold sacred their most precious Mayan world view, a cosmivision called “*Ut’z Kaslemal*” in the K’iche language; which means living in perfect harmony with nature and the elements of air, water, energy and earth.

A gaping wound

The closer one gets to the Marlin mine, the greater the evidence of deforestation and the scars of mega project development which tears at the land and this Maya vision of harmony.

Near the town of San Miguel Ixtahuacan, the road, now widened and freshly surfaced, spirals down into a valley. There at the valley bottom, growing like a rash along the valley hillside, is the mine; ripped into the earth, a massive excavation that threatens to eat everything in its path.

The Marlin Mine is the largest gold mine in Guatemala, one of the poorest countries in Latin America, and accounts for 95-percent of the country's precious metals exports. It is 100-percent owned by Montana Exploradora de Guatemala, a wholly-owned subsidiary of Canadian mining group Goldcorp Inc., who have head offices in Vancouver.

“*The project lies within a highly prospective land package of approximately 100,000 hectares that encompasses the main Marlin deposit and other mineralised zones,*” a Goldcorp company report states with covetous relish.

The mine is a conventional milling operation with a combination of open pit and underground mining which began commercial production in December, 2005.





Cyanide pollution

The valley floor has been dammed to form a glistening, toxic-coloured lake of industrial effluent containing cyanide and copper. And, it is alleged, mercury and lead.

At the Marlin mine cyanide is used to separate gold particles from rock in a process known as “leaching”. The process has been banned in several countries, but in Guatemala it continues.

Opponents say this waste has polluted the local water and eco systems and is making people sick.

Mine managers claim they have given employment to 1,000 people, most of them locals. Opponents say the figure is closer to 800 jobs, and that many of the workers are not locals.

Goldcorp says it has paid US\$9-million in taxes to the national and local governments, improved infrastructure and built schools since the mine opened. But anti-mine activists say that the money is a pittance compared to the profits the Canadian company is making.

According to Goldcorp’s own production figures, in 2009 they milled 2.16-million tonnes of ore and produced 274,900 ounces of gold and 4.15-million ounces of silver, recovering 93-percent of all gold deposits and 69-percent of silver deposits.

Five years ago gold cost in the region of US\$300 an ounce on the world market. During the second quarter of this year increasing concerns over the European debt crisis and the slow recovery of the global economy pushed gold prices to a new record high of around US\$1,200 an ounce.

Local people are reluctant, even afraid, to talk to outsiders about the mine.

But Adilia Macario, a local schoolteacher, recently told Al Jazeera television that she had noticed lesions and sores on some of her pupils’ arms and bodies; but was asked by parents who worked in the mine to keep quiet.

“I’m not very close now with the people who work in the mine. They look at me differently,” she said. “If you claim your rights, they think you are against development. But when I look around me I don’t see any development.”

Juana Bamaca, a homemaker, is convinced that the child she lost two-years-ago was poisoned by chemical waste from the mine.

“We are angry with the mine because of the damage it is doing to us,” she said.

Goldcorp’s denial

For its part, Goldcorp refuses to talk to the press, but issued the following denial:

“Investigations have been conducted in Guatemala by credible experts, trained medical staff, government agencies, international institutions and Goldcorp in response to allegations of medical illnesses and skin rashes. No evidence exists that these conditions are related to the operation of Marlin Mine in Guatemala.”

Instead, Goldcorp conducts a costly publicity campaign showing a happy, smiling miner in a well-lit underground passage, with the slogan “Desarrollo = Trabajo = Mejor Calidad de Vida” – Development equals Work, which equals a Better Life.

And on its website, Goldcorp boasts of “sustainability” and “corporate engagement” and “community engagement”.

It extols the work of the Marlin Mine’s “Fundacion Sierra Madre”, created, it says, “to initiate sustainable development and capacity building programs in the local communities surrounding the project.”

The foundation is working with communities, organizations and women’s groups “to identify, plan, and implement sustainable economic development initiatives, with the goal of facilitating locally based development that will continue well beyond the life of the mine itself,” says the Goldcorp propaganda, claiming “the foundation has been very active constructing, improving or supporting health clinics, banks, school projects, bridges, and water delivery systems.”

All this noble rhetoric stands in sharp contrast with the assessment of Canada’s highly-respected Jantzi Social Index for ethical investment.

In 2008 the Jantzi Index removed Goldcorp from its list of socially responsible companies for “Goldcorp’s overall poor environmental and compliance record” and “the growing opposition from local indigenous communities to the Marlin mine.”

The Maya communities have even harsher words, labelling the mine “illegal and illegitimate.”

Bishop Ramazzini, a brave man

Bishop Ramazzini is going abroad early the next morning, but he has agreed to meet me at very late notice at 8pm at his bishopric, this modest family-style house just around the corner from the cathedral and Masonic lodge on the upper slopes of the small city of San Marcos.

Alvaro Ramazzini Imeri, Bishop of San Marcos, is a brave man.

By embracing the liberation theology of a Christian church that champions the struggle of the indigenous Mayan people for social justice, he has quite literally put his life on the line. Bishop Ramazzini wouldn’t be the first “troublesome priest” to be murdered by right-wing death squads in this beautiful yet tragic country.

“I am not afraid of death,” he tells me, “I know I could be killed at any time.”

Bishop Ramazzini is the driving force behind COPAE, the pastoral commission for peace and the environment, which was founded in 2007 to support the demands of local people who are opposed to mining and hydro-electric mega projects in their communities.

But COPAE is more than this narrow definition. As a true democratic movement of the people, that gives voice to the wishes of the people, it has the full backing and support of the ITUC and many ITUC-affiliated trade unions in Guatemala.

In 2009, COPAE, which has a staff of nine activists and investigators, published the findings of a two-year study on the quality of surface waters surrounding the Marlin mine.

The study found that water used by the people of San Miguel Ixtahuacan for human consumption, for animals and to irrigate crops had been polluted by arsenic and copper. Levels of contamination exceeded official Guatemalan standards, international World Health Organisation standards and safety levels set by the United States Environmental Protection Agency.

The Mayan peoples

Officially, 22 Maya groupings are recognised. Together they make up 41-percent of the population, some 4.6-million people of a total population of 11.2-million, according to the 2002 Census.

"Genocide"

During the 36-year civil-war, from 1960 to 1996, San Marcos and Huehuetenango were the epicentre of genocide and ethnic cleansing as 500,000 indigenous people were murdered by government forces.

"Here in San Marcos, we are not in agreement with the extractive industry of gold and silver," stresses Bishop Ramazzini.

He adamantly rejects the notion that the Marlin mine is good for the local economy and brings jobs and money for local people.

"This type of mining development is very bad for the country. Ninety-nine percent of the people will see no benefits whatsoever. The only people who profit from this are the trans-national companies and the oligarchy in Guatemala," he argues.

"One of our biggest environmental problems is the lack of water. In the mining zone the people do not have enough water for irrigation and even drinking water. Then along comes the mine and they are using thousands and thousands of litres of water every day.

"This is an excessive use of our very limited water resources. We are also afraid that the river running past the mine will be polluted and the ground water also polluted. What good will it do if we have gold but no water?"

"Of course, development is necessary. But it should be integrated and of the type that respects the environment. If we are left with no water, then we will face an environmental catastrophe. This is not development.

"It is not only a problem for the indigenous people. It is a national problem. And we cannot deny that it is the indigenous people and the campesinos who have suffered the most. It is not to their benefit."

The gold rush, a third wave of colonial exploitation

COPAE and its adherents, the democratic indigenous assemblies, believe the mining and hydro-electric mega projects herald the third great wave of colonial and neo-colonial exploitation.

First came the Conquest, then came the great post-colonial land grab by the new neo-liberal oligarchy, who created coffee estates by clearances that forced native people to the mountains.

Now comes unfettered globalisation and the rush for gold.

Under ILO Convention 169, which Guatemala signed and ratified in 1996 (see page 5), developments like the Marlin Mine should only be undertaken after "consultation and agreement" with the indigenous population.

But nowhere, within the hundreds of mining projects currently being undertaken in Guatemala, have the people been consulted by government or mine developers – in total violation of the law.

The same provision, of consulting with the people, lies in Guatemala's own 1997 Mining Law. It states that before such projects start extensive environmental impact studies should be carried out, economic benefits should be proved and that there should be consultations and agreement with local people.

Since Guatemala ratified ILO Convention 169, 137 prospecting mining licences have been issued, 26 of them during this current administration of businessman Alvaro Colom, whose election in 2007 seemed to hold out so much promise for the left.

Most of these licences are for precious metals: gold, silver,



Alvaro Ramazzini Imeri, Bishop of San Marcos. → D.B.

copper, lead, nickel, zinc and uranium. And the greatest numbers have been given out for the Department of San Marcos and the neighbouring Department of Huehuetenango.

Under the 1997 Mining Law, mine owners effectively only have to pay a paltry one-percent of their profit in tax. Half a percent goes to the local municipality and the other half goes to central national government. And there isn't even a reliable auditing system to verify levels of annual production.

Opposition to outside intervention and coercion persists. Perhaps rightly, outsiders are viewed with suspicion.

Opposition from indigenous movements

The fight against the mega projects has coalesced into an eco-socio-political organising movement of tribal people under the umbrella of the Consejo de los Pueblos Occidente, the Council of the Western Peoples.

Since 2005, indigenous organisations, such as the Huehuetenango Assembly of Natural Resources, the Council of K'iche Peoples for the Defence of Mother Life and COPAE itself, have held 43 of their own public consultations, independent of government, to vote on mining and hydro-electric projects.

The democratic polling of men, women and youth has seen a massive and overwhelming rejection of all mega projects. In all consultations, over 500,000 votes have been cast against these so-called development projects; while just 1,234 were recorded in favour. It's a message not lost to right-wing elements in the establishment.

Indigenous organisations have faced the full plethora of murder, assassination, harassment, threats, disinformation, hostility, bribery and corruption from the oligarch-controlled state and its cohorts.

Instead of mega projects, indigenous activists are calling for an integrated national development programme that revitalises and rescues the rural agricultural economy.

And in terms of mining, they want greater controls over the shipment and handling of toxic substances; more detailed environmental impact studies; an independent monitoring system; a disasters and emergencies fund; transparent





auditing of materials being mined; free access to information and rigorous control over the discharge of residual waters used in the industrial mining process.

"Like anyone else, of course we want to live well," says K'iche community leader Aura Lolita Chavez Ixcaquic. "But we can still live well in Guatemala without gold, without mines. Of course we need food, water, land, clothing. You can have one vehicle; but you don't need 10."

Aura is a small woman with a soft voice yet steely determination.

"This is more than an environmental crisis; this is a crisis of civilization," she warns. "We believe we can make a vital contribution to this debate: how to live in harmony. This is not a battle. There are no winners and losers. This is about life."

"Ours is a democratic and non-violent movement. We need the international community to know what is going on. We are not alone in this; 375,000 people have said 'No' to the Marlin mine. We have no confidence in these mining companies, based on their activities around the world."

"They have already cut a deal with the government. This is illegal, unjust, illegitimate. It is savage capitalism, economic gangsterism. They are cheating us once again, this time in the name of progress and development."

"Our concept of living well is living in harmony with nature: air, water, energy, earth. In our culture we do not talk about so-called progress and development."

"This is a new confrontation between the Mayan People and

the state. We have a different way of looking at the cosmos and life and they are breaking the relationship between man and nature. Where is the reciprocation?"

"We are not the owners of the earth. We have to live in harmony. They are raping our territory. They are violating Mother Earth, there is no consensus."

"They – the state, the army, trans-nationals, the big families – are not consulting us. They are taking the land, as if they were the private owners."

Her views are echoed by Francisco Rocael Mateo Morales, co-ordinator of the Huehuetenango Assembly.

"The Marlin mine is not a project that will benefit the local communities. It was imposed by the government without any consultation with local people. From every perspective, from the cultural, economic, social and environmental view, it is not sustainable," he says.

"We have to stop global warming. This will only contribute to global warming. The use of cyanide is polluting our water and aquifers. We view this as a new theft, yet another form of colonialism."

"We have denounced this nationally and internationally as an abuse of human rights. They have made private property sacred. We say public property should be sacred."

"We are very preoccupied and fearful that we might be killed. But where are we to go? Where can we go? To the moon? We do not want to provoke conflict and violence. But this is not their territory. It belongs to the indigenous people."

David Browne

The Breakdown between Words and Practice

Report on the Guatemalan peoples' right to consultation, 1996-2010, (TUCA, CPO, MSICG, ITUC)

"Every Guatemalan government since 1996 has imposed a questionable development model that has increased levels of exclusion. This has made the indigenous peoples ever more determined in their struggle for the respect of their right to achieve their aspirations, determine their own development and preserve their culture and identity, intrinsically linked to their environment and nature."

The report exposes the reality of the situation in Guatemala and the failure to consult indigenous peoples as required by ILO Convention 169 on Indigenous and Tribal Peoples, confirming the findings of the International Labour Organisation's supervisory bodies that the indigenous peoples of Guatemala continue to be the victims of racism, discrimination, repression and exclusion.

Although Convention 169 was an integral part of the Peace Accords signed in 1996, recent United Nations reports and indicators show that the exclusion of these peoples has been exacerbated, notes the report. It goes on to conclude that the crucial problem in Guatemala is not the lack of legislation but the state's lack of political will.

A school teacher detected rashes and lesions on her pupils' arms and bodies. Goldcorp has, however, denied any link between these skin infections and the mine. → COPAE



A convention to fight discrimination

Combating discrimination against indigenous and tribal people? It is possible, thanks to ILO Convention 169.

Over the centuries, indigenous people have regularly been driven off their lands and stripped of their resources. Still today, millions of people belonging to these communities continue to be stigmatised, exploited and marginalised. To combat this discrimination, the International Labour Organisation (ILO) adopted, in 1989, Convention 169 on indigenous and tribal peoples.

Who are they?

Some 370 million persons forming part of approximately 5000 peoples, living in 70 countries, are covered by this text.

As explained in an ILO guide (1), it is difficult to produce a universal definition that embraces such diversity, and the consensus is that it is neither necessary nor desirable to adopt a formal definition of the term "indigenous/tribal people". ILO Convention 169 does not therefore propose a definition of the peoples it aims to protect, but seeks, rather, to describe them. Article 1 refers to tribal peoples as "peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations". Indigenous people, for their part, are described as "peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply," states the text.

Three elements therefore characterise indigenous and tribal peoples: distinct (cultural, economic, social and political) institutions, historical attachment to ancestral lands, and a sense of belonging to an indigenous or tribal group.

Why such a convention and what are its key aims?

The chief aim of this legal instrument is to promote and protect the rights of indigenous peoples, be it their right to the land, to employment, to education and training, or health and social security.

As regards land rights, to which all of Part II is devoted, the Convention states, for example, that, "The rights of



→ D.B.

ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised" (Article 14).

Part III of the Convention addresses issues linked to recruitment and conditions of employment, setting out the duties of governments to "do everything possible to prevent any discrimination between workers belonging to the peoples concerned and other workers", in particular as regards access to employment, equal pay, the right to freedom of association and to exercise trade union activities, the right to working conditions that are not hazardous to their health, the elimination of all forms of forced labour, equality between men and women and protection against sexual harassment (Article 20).

One might ask why a specific convention devoted to indigenous peoples was deemed necessary; do the fundamental rights enshrined in the Universal Declaration of Human Rights not apply to them in the same way as they do to all other human beings? "Unfortunately, their histories are often marked by genocide, ethnocide, discrimination, forced labour – and, in many cases, violations of their fundamental rights still continue," explains the ILO guide (2). The types of violations they still face include denial of citizenship, debt servitude, human trafficking and restricted access to education and health services, etc. It is noted that women often face the worst discrimination.

Specific protection thus seems necessary to guarantee that all human rights are applied to indigenous peoples without discrimination, as well as to ensure respect and recognition for their traditional specificities as well as their current aspirations.

It is by no means a bid to grant greater privileges to





indigenous people than to the rest of society, but simply an attempt to rebalance the situation.

The Convention could be resumed into five fundamental principles:

1. the right to non-discrimination;
2. the right to preserve and develop their identity, which includes the right to respect for their traditions;
3. the right to be consulted "whenever consideration is being given to legislative or administrative measures which may affect them directly" (Article 6). Article 15 stipulates that States have an obligation to consult them before any exploitation or exploration of the natural resources on their lands;
4. the right to determine their own priorities with regards to development (Article 7);
5. the right to participation, in the broadest sense of the term. This includes participation in the formulation, implementation and assessment of measures and programmes directly affecting them, as well as full participation as citizens in the political life of the country.

What obstacles were faced in securing its adoption?

The road to adopting Convention 169 was long and arduous. Although the ILO had already adopted a Convention on forced labour (no. 29) in 1930, it was whilst monitoring its implementation that it realised the need to devote a text to indigenous peoples.

In 1957, it was done: a convention (no. 107) regarding indigenous and tribal people came into being. It was, however, soon called into question, due to a number of paternalistic elements in the text, reflecting the vision of development at the time (describing indigenous peoples, for example, as "less advanced"), and because it advocated the "gradual integration" of indigenous populations, rather than their right to develop and preserve their identities (3).

In 1986, a committee of experts convened by the ILO Governing Body concluded that the "Convention's integrationist approach was obsolete and its implementation was detrimental in today's world". The text was therefore revised.

The discussions preceding the adoption of the new Convention were nonetheless heated. One of the most controversial issues, for example, was the use of the term "people". Many governments feared this term would pave the way for indigenous peoples' right to self determination and, by extension, to independence, which led to a clause being inserted into the Convention stating that "The use of the term peoples in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law" (Article 1, point 3).

Indigenous peoples contested this clause but it was, nevertheless, retained.

In 1989, ILO Convention 169 was adopted. It came into force two years later. In 2007, the UN General Assembly in turn adopted a Declaration on the Rights of Indigenous Peoples (DRIP).

These two instruments (ILO Convention 169 and the UN Declaration) are different in terms of their legal nature. The Convention is an international treaty and is legally binding for

States that have ratified it, whilst the Declaration is not subject to ratification and does not have legally binding status.

It is hoped that the UN Declaration will provide fresh impetus for the ratification and implementation of ILO Convention 169, given that only 22 countries (4) out of the 183 member states of the International Labour Organisation had ratified it as at 1 May 2011. The 17 countries in which Convention 107 remains in force should, however, be added to this (5). The initial text was signed by 27 countries but is no longer in force in countries that also ratified Convention 169.

What mechanisms ensure its effective implementation?

Article 2 of ILO Convention 169 on indigenous and tribal peoples states that governments have a responsibility to protect their rights and assist in eliminating socio-economic gaps that may exist between them and other members of society.

Each signatory country must provide regular reports on the measures taken to implement the provisions of the Convention. The ILO encourages governments to involve indigenous peoples in this assessment, but their participation is in fact very rare.

These reports are examined by the Committee of Experts on the Application of Conventions and Recommendations, which issues observations and requests for information. Although these recommendations are not binding, they are published in the ILO annual report and, as such, exert moral pressure to which governments are usually sensitive.

Whilst it is not provided that indigenous organisations or the NGOs working in partnership with them can directly submit their remarks or complaints to the Committee of Experts, workers' and employers' organisations can do so and can act on behalf of indigenous communities (see Article 24 of the ILO Constitution). These organisations therefore have an important role to play in the effective implementation of the Convention, and all the more so given that the reports are examined during the annual session of the International Labour Conference by the tripartite committee on the application of standards. This tripartite body provides employers' and workers' representatives with an opportunity to take part on an equal footing with governments in all the deliberations and decisions of the ILO.

The monitoring conducted by the ILO is also accompanied by far-reaching technical cooperation programmes (such as the INDISCO programme), through which the ILO contributes to projects to improve the socio-economic conditions of indigenous peoples.

Although the Convention is not exempt from criticism (it is reproached for the inclusion of terms such as "wherever possible" in many articles, limiting its reach), it is, nonetheless a precious negotiating tool for indigenous peoples and organisations - such as trade unions - fighting for the elimination of all forms of discrimination. Moreover, its impact and influence extend far beyond the circle of countries that have ratified it.

(1) Indigenous and Tribal Peoples' Rights in Practice. An ILO Guide to Convention 169, Geneva, ILO, 2009, 200 pages, p. 9. Available online at: http://www.ilo.org/global/publications/ilo-books-tore/order-online/books/WCMS_116818/lang--fr/index.htm

(2) Op. cit., p. 32

(3) To find out more about this Convention or to read the text, see: <http://www.ilo.org/indigenous/Conventions/no107/lang--fr/index.htm>

(4) Argentina, Brazil, Chile, Colombia, Costa Rica, Denmark, Dominica, Ecuador, Spain, Bolivia, Fiji, Guatemala Honduras, Mexico, Nepal, Nicaragua, Norway, Paraguay, Netherlands, Peru, Venezuela, Central African Republic

(5) Angola, Bangladesh, Belgium, Cuba, Dominican, Egypt, El Salvador, Ghana, Guinea Bissau, Haiti, India, Iraq, Malawi, Pakistan, Panama, Syria and Tunisia.