



Latin American Mining Monitoring Programme

UN General Assembly Thematic Report on Natural Resource Exploitation and FOAA

Response by the Latin American Mining Monitoring Programme (LAMMP)

Firstly, we wish to thank the UNGA for carrying out this research on the freedom of peaceful assembly and association (FOAA) in the context of natural resource exploitation.

LAMMP is a UK-based charity aimed at supporting rural, indigenous and afro-descendant women affected by the extractive industry in Latin America. Women from these marginalised communities face several obstacles that are deeply rooted in traditional structures of inequality, which in turn inhibits them to fully exercise their human rights and fundamental freedoms. With the growing importance of the extractive industry and ensuing race to the bottom across the region, these challenges are exacerbated.

Accordingly, LAMMP identifies repression on communities' FOAA not only as a violation of human rights, but also as a mean of perpetuating discrimination against women from rural and indigenous communities. The answers to the following questions will therefore be framed within this particular setting.

1. What are the particular challenges to exercising peaceful assembly?

Across Latin America, resource exploitation is an evident source of social conflicts between local communities, State authorities and the extractive sector. In response to tensions, States have been quick to criminalise protests and stripping communities of their rights to FOAA.

The following will attempt to make sense of and illustrate the challenges that emerge in exercising FOAA rights in the context of natural resource exploitation in Latin America: the lack of dialogue and inadequate community consultations, stigmatisation of human rights and environmental activists as well as the failure of companies to recognise and respect communities' rights to peaceful assembly and association.

a. Lack of dialogue and inadequate community consultations

Firstly, the absence of dialogue and inadequate consultations are identified as an outstanding source of conflict in Latin American countries that seek to attract further investments for exploration and exploitation of resources. Based on sustained field research with affected peoples, LAMMP signals this failure as an immediate challenge for local communities with limited opportunities to negotiate their priorities and to preserve their livelihoods.



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Despite the fact women from these communities are disproportionately affected by resource extraction and its devastating impacts, they are often excluded from consultation processes. As a result, their differentiated needs and concerns are often dismissed and ignored.

As part of its research, LAMMP carried out focus groups and interviews with rural women from Ecuador and Peru as well as indigenous women from Venezuela. The informants highlighted the following obstacles with regard to consultation processes:

-Women from rural and indigenous communities report that they are constrained to domestic chores and often encounter opposition within their household from male family members. Women identify this opposition as an additional challenge preventing them from engaging in the issue of natural resource exploitation. Also, consultations are often structured as day or week long workshops, creating further difficulties for women who lack time and resources to participate.

-As part of the consultation process, information is often disclosed in written form or with questionnaires. This process effectively inhibits participation given the low literacy levels of many, particularly among women within rural and indigenous areas. On a similar note, LAMMP also observed that in Peru, consultations are frequently carried out in Spanish regardless of the fact that many community members speak only Quechua.

-Women also report that indigenous leaders or environmental defenders, both women and men who are traditionally opposed to extractive projects, are frequently excluded from Government consultation meetings.

As such, participation processes are by no means transparent and inclusive. As a result, the concerns and rights of women impacted by the extractive industry are constantly undermined and ignored. As they seek to challenge and overcome these barriers, women suffer from further discrimination.

b. Delegitimizing women activists

In the context of natural resource exploitation, the process of stigmatisation and discrediting of protesters, civil society and activists serves to obstruct their work in defence for human rights and environmental justice. For LAMMP, this process also effectively reinforces the criminalization human rights defenders, particularly women who face gender based violence in the context of natural resource exploitation.



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In Ecuador, the grassroots women group El Frente de Mujeres Defensoras de la Pachamama¹ was confronted with demeaning and degrading slurs from public authorities during a protest against Canadian mining company Ecuacorriente- Exploracobres in June 2010. Rural and indigenous women who were present in the march were insulted and harassed by police officers. Some of the slur included direct reference to their gender and origin such as “*indias sucias*” (i.e. dirty natives). Following this protest, several women human rights defenders (WHRDs) from the group were charged with false accusations of crime against internal state security. Accordingly, LAMMP is concerned by the widespread gender based violence in Ecuador² and its impact on women’s opportunities to FOAA in the context of natural resource exploitation.

For LAMMP, the language used against them unveils the overall discriminatory discourse the women encounter in attempting to exercise peaceful assembly. Their opportunities for exercising their right to FOAA are clearly inhibited, taking into account traditional gender forms of exclusion. As a result, WHRDs often describe the overall climate in which they try exercise their rights as one of fear and insecurity, which in turn limits their opportunities for political participation.

c. Failure of companies to recognise and respect individual's and communities' right to FOAA

Across the region, women have shared testimonies with LAMMP in which they report that mining companies actively work to undermine their rights to FOAA. As foreign companies generally work through subcontractors and subsidiaries, it is not uncommon for mine workers to harass and verbally abuse activists, civil society organisations and community leaders defending environmental and human rights.

Since 2012 LAMMP has worked in Guatemala to support WHRDs in La Puya; a women-led movement set up in resistance outside El Tambor gold mine operated by EXMINGUA, a subsidiary of US Company Kappes, Cassidy & Associates (KCA).

The women in the movement have frequently reported threats and harassments from mine workers attempting to deter them from forming their assembly outside the mine. In November 2012 mine staff

1 <http://defensoraspachamama.blogspot.co.uk/>

2 According to the Instituto Nacional de Estadísticas y de Censos (INEC Ecuador), six out of 10 women have been victims of gender based violence and aggressions in 2011. Experiences are similar across Latin America, for example as shown with growing rates of femicides in Guatemala (an average of 560 women murdered in 2012).



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insulted and sought to intimidate women defenders; shouting verbal abuse at the peaceful protesters and claiming the operations at the mine would continue no matter what³.

Furthermore Yolanda Oqueli who is a leader in this movement, reported in confidence to LAMMP⁴ that mine workers had circulated leaflets labelling her as a "whore", and other gender-specific abuse as a result of her activism.

In sum, LAMMP hopes these examples demonstrate that companies are uncooperative to the need to preserve FOAA. We also wish to highlight that mine workers are often directly involved in criminalising human rights defenders and protesters by intimidating them and delegitimizing their actions.

2. To what extent do these challenges stem from?

a. Government Institutions

From the offset, LAMMP has noted the lack of political will of governments to support and uphold individual's and communities' FOAA rights. Natural resource exploitation being considered a driving force for many of the Latin American economies⁵, community opposition is very often perceived as a threat to national development and activists labelled as troublemakers.

This transpires in the pro-business discourses adopted by many heads of States and their government in response to anti-mining assemblies: in Ecuador's President Correa's 2012 statement: "We cannot be beggars sitting on bags of gold"⁶. Similarly, the Colombian government sold land to private investors from the Cauca region in the South West of the country in order to boost large-scale mining developments. This transaction was followed by mass forced evictions of the afro-descendant communities inhabiting these territories⁷. In response to the widespread opposition, public authorities called activists and community organisers: "perturbadores de mala fe" (i.e. agitators of bad faith)⁸

3 The occasion was recorded on video by a protester and available here as seen on this video:

https://www.youtube.com/watch?v=t7HllGR_w.

4 Private conversations in May and December 2014

5 Figures released by the UN Economic Commission for Latin America shows the mining sector growing from US \$ 90 billion in 2001 to US \$ 306 billion in 2011.

6 http://internacional.elpais.com/internacional/2012/03/22/actualidad/1332401814_771553.html

7 <http://afrocolombian.org/2015/01/08/open-letter-no-10-from-government-rhetoric-to-community-actions-we-have-agreements-we-want-implementation/>

8 <https://www.youtube.com/watch?v=LvMiyYM8Q2Y>



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Unsupportive attitudes from State representatives has devastating impacts on indigenous and rural peoples' right to FOAA and effectively nurtures the ongoing criminalisation of activists.

- *Failure to implement human rights standards*

LAMMP recognises the efforts made at domestic and international levels to improve on community relations, mitigate environmental and social impacts and carry out due diligence. Such developments are relevant to natural resource extraction. However, there appears to be major gaps in implementation of the treaties and conventions designed for this purpose.

A typical example is the failure of governments to abide by national and international laws and standards protecting indigenous peoples, such as the ILO Convention 169 on Free, Prior and Informed Consent (FPIC). This Convention has been ratified by all States in Latin America that have also enshrined the right to FPIC in their national constitutions. However, across the region, indigenous communities reported to LAMMP that this treaty is not currently being duly implemented by States. Instead, there is a growing sentiment among indigenous peoples, that their right to self-determination is being undermined⁹.

In Peru, the law on FPIC was promulgated in 2011 triggering important advances for the rights of indigenous peoples. However, the definition of what constitutes "indigenous" relies solely on the government. As a consequence, Andean communities are denied the right to free and prior consultation as the State officially considers them as rural *campesinos*, but not indigenous.

The fact that communities were themselves not consulted regarding their indigenous status demonstrates that the implementation and respect for FPIC is constantly being debated by the governments and denies community's right to self-determination and to preserve their environment and livelihoods.

- *State impunity*

As government seek to attract further mining investments, communities and civil society find it increasingly challenging to exercise FOAA. Across the region, activists or human rights defenders face great risk of being persecuted; deaths have been reported across Venezuela, Guatemala, Ecuador and Peru as activists and indigenous peoples are finding themselves caught in power struggles over land and resources. As national governments fail to protect them, such acts of violence tend to remain in impunity.

9 <http://lammp.org/wp-content/uploads/2014/12/Forum-report.pdf>



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Yolanda Oquelí, a WHRD in Guatemala was herself a victim of an attempted murder in 2012. She was shot by unidentified gunmen as she was driving home from the site of peaceful assembly, La Puya. This attack was never fully investigated by government authorities, and the perpetrators remain unknown.

LAMMP is also concerned about the impunity crippling within governmental institutions across the region, especially in settings as fragile and volatile as those of conflicts over land and resources. In Peru, police and armed forces are exempt from prosecution in the event of injury or death in the performance of duty¹⁰, giving *carte blanche* to commit human rights violations in complete impunity.

The overall impunity across the region is most experienced by rural and indigenous activists attempting to exercise their right to FOAA. With the surge of conflicts, governments stand by their position in which dialogue is considered unfeasible. As a result, peoples' right to freedom to peaceful assembly is imminently threatened¹¹.

- *Lack of independence of judiciary*

Intensifying the rampant impunity is the failure of domestic justice systems to respond adequately to human rights violations linked to natural resource exploitation.

Judiciary bodies appear to lack the capacity and will to apply rule of law, as seen in Guatemala where many activists have been injured, raped and/or killed for participating in protests or taking part in anti-mining assemblies¹².

As these cases were brought to light, the Guatemalan Judiciary has shown itself unresponsive and unable to prosecute the perpetrators. This was the case of Angelica Choc and the women defenders from El Estor who have suffered severely from repeated human rights violations and abuses by security personnel of the Fenix mine, operated by Canadian company Hudbay Minerals including the rape of 11 women¹³. This case was brought to the Canadian courts, as Guatemalan Justice System turned a blind eye to the women's testimonies¹⁴.

Additionally, in several cases reported to LAMMP, national judiciary systems remain opaque: a recent example is that of Máxima Acuña Atalaya, a rural woman from Cajamarca, Peru. Since 2011, mining

10 http://www.oas.org/en/iachr/media_center/PReleases/2014/004.asp

11 <http://blogs.ei.columbia.edu/2012/09/10/peru-mining/>

12 <http://www.theguardian.com/environment/andes-to-the-amazon/2014/aug/12/guatemala-gold-mine-protester-beaten-burnt-alive>

13 <http://www.chocversushudbay.com/about>

14 <http://business-humanrights.org/en/hudbay-minerals-lawsuits-re-guatemala-0>



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company Yanacocha has been trying to expropriate her land through any possible mean. The company sued Máxima and her family, claiming she was illegally occupying mining concession. An endless legal battle ensued for Máxima: on two occasions, Máxima and her partner were given prison sentences as well as to pay compensation to Yanacocha. Her own deeds proving her legal ownership to the property were constantly ignored, even after the initial verdict was out-ruled in 2013. Máxima then challenged the Court's decision.

On the day prior to the hearing of her appeal in November 2014, Yanacocha informed the Court that its lawyer was too ill to attend the session. Máxima's appeal was finally granted in December 2014, confirming her status and rights as the legal owner of her land. LAMMP believes the Court sided in favour of the company and failed to acknowledge Máxima's title deeds demonstrating an endemic lack of independence of the Judiciary.

In view of the above, LAMMP reports that criminal law is increasingly being twisted and misused as a tool to repress individual and collective freedoms. Charges against protesters with groundless accusations are a growing trend in countries affected by mining in Latin America. In this climate of endemic impunity and weak justice systems, activists and practitioners of FOAA find they have no one to turn to.

b. Businesses themselves

LAMMP acknowledges that businesses do not have the obligation to act as enforcers of human rights, yet in line with the *UN Guiding Principles on Business and Human Rights* (UNGPR), companies are required to respect human rights. Evidence on the ground however, continuously demonstrates how the extractive sector systematically contributes to adverse human rights impacts.

-Lack of interest in consulting local communities

For many among rural and indigenous communities the extractive sector works against the common good as its impact include the degradation of the landscape, impact on water quantity and quality, pollution and contamination of natural resources to name but a few.

In addition to this sentiment of concern, communities also express a growing lack of trust in companies that seem unwilling to cooperate and have an honest and transparent dialogue with affected peoples. Reports from Guatemala show that some mining companies had acquired land under false pretences, telling land owners it will be used to sow for coffee, flower or fruit plantations¹⁵.

15 <http://www.proceso.com.mx/?p=388517>



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Canadian mining company Goldcorp is a relevant example of the extractive industry's failure to consult with local communities. When indigenous Maya-Mam women from the affected community of San Miguel Ixtahuacán addressed themselves to administration of Montana Exploradora, the operating subsidiary, they reported getting rebuked and that the company repeatedly refused dialogue¹⁶.

In 2008, Maya-Mam activist, Crisanta Perez from the same community was charged for vandalism after causing a temporary power failure in the concession cutting off electric cables that were set-up within her back garden, by the mine without prior consultation¹⁷.

This absence of dialogue increases tensions with affected groups in an already fragile context, and plays an important part in generating conflicts. These are important to bear in mind as in Guatemala for example, and particularly with the case of Goldcorp, many women activists were groundlessly accused of crime against state internal security for having participated in protests and other community leaders have been brutally murdered for raising their voices and engaging in community organising and activism despite death threats.

- *Use of security and lack of accountability*

The *Voluntary Principles on Security on Business and Human Rights* (VPs) unites many representatives of the extractive industry dedicated to "maintaining the safety and security of their operations within their operating framework that encourages respect for human rights"¹⁸. This set of principles sets an important benchmark for responsible business.

However, based on LAMMP's experience on the ground there appears to be important gaps between this willingness to transform business operations and its implementation.

Newmont Mining Corporation is a signing member of the VPs and joint owner of mining company Yanacocha¹⁹ which operates the Conga mines in Cajamarca, Peru. The involvement of mine security in the disputes surrounding this mega-development project is noteworthy. Máxima Acuña, a woman supported by LAMMP, claims she receives constant harassments and intimidations from the mine's security. The most recent incident occurred on 20 January 2015 when armed police officers and mine security intruded on her land, threatening her and attempting to evict her off her land. In the past,

16 <http://rabble.ca/news/2012/03/guatemala-women-defenders-defy-canadian-mines-and-plead-help>

17 <http://redulam.org/guatemala/firma-y-denuncia-que-la-violencia-extractivista-es-contra-las-mujeres-indigenas/>

18 http://www.voluntaryprinciples.org/files/voluntary_principles_english.pdf

19 Yanacocha is a joint venture between Newmont Mining Corporation (51.35%), Minas Buenaventura (43.65%) and the International Finance Corporation (5%)



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Máxima has been a victim of physical abuse by Yanacocha's security when they beat her and her daughters up in August 2011. Yanacocha constantly denies any responsibility for these acts of violence²⁰. Additionally, in 2011 Yanacocha accused Máxima of illegally occupying mining concession despite the fact the company does not formally own the land in question.

Unfortunately, Máxima is not the only victim of abuse by Yanacocha security²¹, or even national police. In Peru, mining companies can benefit from police force of their operations blurring the lines of accountability in case of human rights abuse²².

The question of mine security is at the centre of discussions regarding corporate responsibility to respect human rights. Repeatedly, companies deny any acts of violence committed to individuals exercising FOIA and refusing to be held to account for human rights violations.

c. Broader Business environment and the race to the bottom

- Deregulation of business environment at the expense of communities

As a result of pro-business attitudes from governments, efforts to attract investments for natural resource extraction have included significant deregulation of businesses. In the recent years, Latin American States have carried out actions to cut back on environmental laws, to facilitate project approvals and to ease tax breaks for big investors.

This process, otherwise known as a "race to the bottom" is telling of the current climate suffered by marginalised communities in Latin America. Their right to consultation is increasingly being denied and their livelihoods are directly under threat.

In 2014 Peru promulgated the environmental law 30230. Through this law, the Environment Ministry finds its capacity reduced as to creating natural reserves exempt from mining. It also overturns the

20 In factsheet released in 2014, Yanacocha denies any hostility and acts of violence against Máxima's family or any other member of the community, reference available here: <http://207.195.224.31/node/5047>

Please read LAMP's response to this factsheet with supporting evidence at the following link:

<http://lammp.org/?p=3213>

21 2012 was the deadliest year for the Conga conflict with the brutal police repression of protesters leaving 5 dead and over 150 injured.

22 http://assets.gfbv.ch/downloads/report_engl_neu_def.pdf



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rights of indigenous peoples to FPIC and reduces the time designated for the Environmental Impact Assessment (EIA) of the project²³.

Similarly, for the El Tambor mine in Guatemala the EIA submitted by EXMINGUA to the government revealed the devastating impacts of this project, particularly to nearby water supplies and on community's health and safety. The project was nevertheless approved, revealing that environmental and social appraisals for a project are often considered a mere formality, and rather than a vital procedure to assess the viability of a project²⁴.

- *Pressure from trade agreements*

On the other hand, Governments are themselves increasingly under pressure from international trade agreements, debilitating the state's safeguards in terms of environmental and social protection.

The case of El Salvador's legal battle against Australian mining company OceanGold demonstrates the fragile position of government. OceanGold is suing the Central American government after its refusal to grant it a permit for a gold-mining project because of its potential devastating impacts²⁵.

The consequences of these agreements are mainly suffered by rural and indigenous communities whose livelihoods are threatened by natural resource exploitation. It also poses a significant threat to the right to self-determination and to negotiate their interests for development on their own terms.

d. Challenging environment for women

An important aspect that is significant for the women LAMMP supports is the overall discrimination and marginalization of these communities. Women from these communities are often denied their political right of democratic participation and suffer the most from social and political exclusion.

In 2013, the Correa government in Ecuador ruled a decree which enables the state to dissolve civil society organisations and groups and to define areas of activism²⁶. As a result The Frente de Mujeres Defensoras de la Pachamama are facing restrictions as to their environmental justice activities on the

23 <http://www.rightsandresources.org/news/new-law-in-peru-to-severely-curtailland-rights-for-indigenous-peoples-and-smallholder-farmers/>

24 <http://www.ghrc-usa.org/wp-content/uploads/2014/11/Puya-report-final.pdf>

25 <http://www.theguardian.com/commentisfree/2014/oct/03/australian-mining-is-poisoning-el-salvador-it-could-soon-send-it-broke-toob>

26 http://www.bbc.co.uk/mundo/ultimas_noticias/2013/08/130812_ulnot_ecuador_critica_ley_ng



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basis that these are not meant for women²⁷. In this case, gender-based discrimination²⁷ is used as a tool to legitimise the repression of FOAA rights.

LAMMP reports there is a systematic failure to actively engage with women from these communities and to take into account their differentiated needs, perpetuating and reinforcing these entrenched inequalities and is therefore contradictory to the principle of non-discrimination.

3. What type of action should be taken to mitigate these challenges?

To mitigate these challenges, efforts should be made on different levels:

- a. LAMMP reinforces that there are pre-existing benchmarks for integrating human rights to natural resource exploitation activities, such as the UNGP. However, their existence does not seem to be sufficient to ensure the respect of human rights, including FOAA²⁸. Experience on the ground shows that further efforts need to be established with support of civil society, grassroots organizations and international institutions such as the United Nations' bodies to effectively monitor their implementation, and sanction failure to abide to international human rights law.
- b. Peaceful protesters and grassroots activists must be provided further support to knowing and understanding their rights to freedom of assembly and association. It is LAMMP's view that this is particularly relevant for women from rural, indigenous and afro-descendant communities in Latin America as they often face important obstacles access relevant tools and resources to fully exercise and enjoy their human rights and fundamental freedoms.

4. Provide case studies illustrating natural resource exploitation which you believe had a positive or negative impact upon FOAA rights:

a. Suppression and facilitation of lawful/peaceful protest regarding a project

La Puya, Guatemala

In 2012, *campesina* and indigenous women from the municipalities of San José de Golfo and San Pedro Ayampuc gathered together in resistance to the El Tambor gold mine. The project is operated by EXMINGUA, a subsidiary of US-based Kappes, Cassidy and Associates (KCA). Several experts who

27 Information received in confidence from Lina Solano Ortiz, coordinator of the Frente de Mujeres de la Pachamama in private conversation with LAMMP

28 Other initiatives dedicated to improve on the situation of human rights within extractive business operations exist, such as the International Council for Mining and Metals or the Voluntary Principles on Security and Human Rights. However, experience on the ground reveals their lack of implementation.



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reviewed the Environmental Impact Assessment (EIA)²⁹ for the concession openly expressed their concerns as it will have devastating impacts to the surrounding environment and populations.

For two years, the women established themselves at La Puya which gradually became a peaceful resistance site for the whole community. Activists would join in prayer and various activities such as cooking and education on human rights. Their assembly became national symbol of peaceful resistance.

However, between 2012 and 2014, the protesters have encountered several challenges including attempts to suppress their peaceful opposition. In 2013 one activist was murdered and another, Yolanda Oqueli was left severely injured by unidentified gunmen.

Also, the protesters experienced two violent forced eviction attempts operated by the National Police (PNC in Spanish) on the 7 December 2012 and on the 23 May 2014. During the latest attempt, the women of La Puya knelt down in front of the fully armed PNC and started singing religious hymns. After a few hours, PNC began throwing tear gas at the women defenders and violently assaulted them.

The PNC were successful in their efforts to forcefully evict them, leaving at least 24 people injured including a pregnant woman and many elderly members of the community.

b. harassment/ violation/ sexual abuse committed particularly against women

Piura, Peru

Until 2003, Cleofe Neyra led a peaceful existence in Huancabamba in the wetlands of Piura, North Peru. As a subsistence farmer, like most people in her community, she survived from her agricultural activities and from selling some of her crops to local markets.

However, this tranquil way of life was suddenly disturbed with the arrival of UK mining company Monterrico Metals. With their Rio Blanco project, the company had planned to operate an open-pit mine for the extraction of copper and molybdenum. Due to the magnitude of this project, communities of Huancabamba organized in protest expressing their concerns for its environmental and human impact.

Cleofe Neyra participated in a peaceful march reuniting over five thousand community members that lasted five days in opposition to Rio Blanco. She was kidnapped alongside Elisabeth Cunya, another female activist by private security working for the mine.

29 <http://www.ghrc-usa.org/wp-content/uploads/2014/11/Puya-report-final.pdf>



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Both women were detained for five days, half naked, with black bags covering their faces and feet and hands tied up. Cleofe Neyra recounts her imprisonment: “We did not have food or water. They beat us a lot with their knuckles and boots. They all took pleasure squeezing my breasts, so hard that I felt I would faint from the pain. They kept on threatening us with rape, would tell us their fantasies and what they would do to us”.³⁰

When Cleofe Neyra and Elizabeth Cunya denounced the crimes to the Peruvian government, the Public prosecutor filed a lawsuit against the women for participating in illegal activities. The charges were later dropped for lack of supporting evidence. Their denunciations were finally brought to the UK Courts. Throughout the entire legal procedure, Cleofe Neyra and Elizabeth Cunya were subjected to death threats and various forms of aggressions.

Monterrico finally agreed to an undisclosed compensation settlement, this means that the victims did get compensation however justice has not been made.

c. Harassment or facilitation of civil society and grassroots groups involved in opposing a project

Piura, Peru

The Rio Blanco project, previously owned by UK mining company Monterrico Metals was suspended in 2009 after many years of social conflict with local peasant communities. The closure of the project left many scars within affected communities as many were injured, murdered and sexually assaulted.

In 2007 however, Chinese mining consortium Zijin purchased the Rio Blanco project and announced its re-opening in 2015. Local civil society and grassroots organization immediately raised the alarm about these plans despite the consortium’s expensive PR campaign to promote the benefits of this project.

The women’s role was significant in calling for the initial suspension of the project and for seeking justice for human rights violations provoked by the UK Company.

As a result of their efforts in the defense of human rights they have suffered increasing pressure as the concession is planned to re-open. The Union Latinoamericana de Mujeres (ULAM)³¹ documented thirteen serious incidents against AMUPPA members since 2012. These include death threats, physical

30 <http://redulam.org/mayo-mujer-del-mes/>

31 Red ULAM is the Network of Latin American Women, a sister organisation of LAMMP uniting grassroots and women human rights defenders dedicated to preserving their environment and rights from the devastating impacts of the extractive industry.



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violence, harassment and acts of intimidations. A recent incident took place on the 2 May 2014 when two members of AMUPPA were violently assaulted by mine workers as they were walking in the street.

These attacks are grave violations against these women defenders' rights to freedom of association and assembly.

5. What measures/actions would you recommend States and businesses and individuals to enhance the promotion of FOAA?

- For States: Community consultation is a prerequisite for the promotion and protection of FOAA rights. Consultations must be transparent, inclusive and relevant to the affected communities³². Consultations must both communicate benefits for the affected communities as well as the potential impacts. Similarly, Environmental Impact Assessments submitted by the companies to the State should not be a formality: They must be shared and reviewed by the affected communities, and have relevance in the decision-making processes.
- Principles of FPIC must be expanded to include rural and afro-descendant communities who rely on their natural resources for their survival and cultural legacy.
- Consultations and all communications with affected peoples must be inclusive and take into account the differentiated needs and impacts of all stakeholders. By doing so, consultation processes must recognise inter-sectional discrimination (gender, ethnicity, class, etc.) and provide adequate opportunities for feedback.
- States must urgently review and revoke anti-terrorist laws criminalizing public protest. Also, States must refrain from resorting to State of Emergencies, ultimately stripping off rights and freedoms of affected communities.
- Both States and Companies must abide to the UN Guiding Principles on Business and Human Rights, International Human Rights Law and call on third-party support for monitoring its implementation.
- Principles of Human Rights must not be considered voluntary, but legally binding.

32 From work in direct relationship with women from Latin American rural, indigenous and afro-descendant communities affected by EI comes from the failure to consult adequately. Women report that consultation merely takes the shape of a workshop with free lunch as incentive, little opportunity for feedback, without taking into account significant barriers for the various groups, particularly the most vulnerable.



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- Companies must carry out human rights due diligence prior and during their operations, particularly regarding security personnel and national police. The widespread criminalization of human rights defenders and the repression of peaceful protesters must be taken into account when carrying out human rights impact assessment. This appraisal must be ongoing and transparent.
- Across Latin America, communities have begun applying democratic tools to advocate for their right to consultation and to decide whether they want mining or not³³. It is imperative that such efforts are to be recognised by both State and companies, and individuals must be encouraged to exercise their rights.

33 This has been increasingly noticed in El Salvador, Honduras and Peru in which communities organize a public referendum. In the case of the Rio Blanco mine in Peru, communities voted over 90% “no” in 2007. For further information: <http://www.perusupportgroup.org.uk/article-147.html>