



Alaska (US)

CANADA

NORTH
PACIFIC

UNITED STATES

ATLANTIC
OCEAN

Hawaiian Islands (US)

MEXICO

CUBA

DOMINICAN REP.

HAITI

Puerto Rico (US)

BELIZE

JAMAICA

GUATEMALA

HONDURAS

EL SALVADOR

NICARAGUA

COSTA RICA

PANAMA

VENEZUELA

COLOMBIA

GUYANA

Guyane (Fr.)

SURINAM

ECUADOR

PERU

BRAZIL

BOLIVIA

PARAGUAY

SOUTH
PACIFIC

CHILE

URUGUAY

ARGENTINA

Americas

Maurice Bryan

The resource-rich Americas region is socially and economically diverse, with millions of indigenous and African descendant populations as well as immigrants of European, Asian-Pacific and Middle Eastern ancestry. In 2011, the most disadvantaged and vulnerable continued to be people of African and indigenous origin. This is due to the enduring influence of cultural attitudes, economic policies and social patterns established during the earliest centuries of colonial expansion. These are still reflected in contemporary issues such as dislocation from traditional lands for large-scale agriculture and natural resource extraction.

During 2011, the strong global competition for diminishing primary resources – including by newly industrializing nations – contributed to an increasing drive to exploit previously untouched lands, alternative energy sources and untapped mineral deposits. Significantly, many of these are located in the often remote areas traditionally occupied by indigenous and African descendant communities. The result is that during 2011, indigenous peoples and African descendants in most Central and South American countries continued to struggle against attempts to separate them from their ancestral lands, and in North America fought against efforts to limit their right to control the resources within their territories.

Clearly seen but treated hard

In South American countries such as Bolivia, Chile, Ecuador and Peru, indigenous peoples who protested against government decisions to use natural resources for revenue accumulation were sometimes criminalized. Indigenous peoples and rural African descendants who mobilized to defend their interests – in Argentina, Colombia and Honduras – were often seen as ‘standing in the way of development’, resulting in their being not only criminalized by the state but also threatened, harassed, forcibly evicted and sometimes even assassinated by non-state agents. Constitutional allowances and international treaties such as the UN International Labour Organization Convention No. 169 (ILO 169) and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), and the Inter-American Court of Human Rights (IACtHR) standards developed to safeguard the rights of these

populations tended to have only a limited effect.

In 2011, the consistent failure of most states in the Americas to comply with these norms in good faith, often resulted in non-receipt of promised land titles, privatization of communal lands, forced removals and inadequate access to decision-making processes on the use of their territories, resources and the resulting revenues. A specific recurring factor, where large resource extraction and infrastructure projects are being planned or implemented, was inadequate compliance or complete circumvention of legally required free, prior and informed consent processes. Activists in countries such as Canada, Ecuador, Guatemala and Peru especially pointed to the lack of standard national guidelines and mandated procedures that can and ought to be followed by national officials during such consultation processes.

Added to this reality, indigenous and African descendant communities in most Central and some South American states faced constricted public investment, limited economic opportunities, poor access to social services, high levels of public insecurity and the strong influence of organized criminal enterprises. All of these challenges were exaggerated by the generally weak state presence in remote geographical zones, as well as by fragile institutions, uneven justice administration, politicized judicial systems, and continuing high levels of corruption and impunity – particularly in Central and South America. In Central American states especially, this was reflected in the ongoing militarization of civil society and the increasing use of private paramilitary forces in the service of powerful special interest groups bent on the dispossession of indigenous and African descendant communal lands.

Partial to progress

A key element in forcible land alienation during 2011 was the continuing drive to expand large-scale mono-crop bio-fuel plantations, as well as the extensive region-wide efforts to increase hydrocarbon extraction, mining, and mega-projects such as dams and highways through traditionally held lands. All of these had a direct and also indirect – mostly negative – impact on indigenous and African descendant communities

that were routinely excluded from key planning and decision-making processes and denied opportunities for meaningful prior consultation, often prompting them to seek legal redress. As a consequence, during 2011, some governments that earlier enjoyed significant support from indigenous groups and organizations, especially in Bolivia and Ecuador, found such cooperation diminishing as original peoples sought to safeguard or exercise their legally guaranteed rights.

During 2011, the combination of these factors coupled with unprecedented climate disasters – extensive floods and landslides – across all of Central America as well as in many South American countries, posed significant challenges to vulnerable indigenous and African descendant communities. The overall result was a continuing constraint to their self-determination, general socio-economic stagnation and, in extreme cases, further degradation of the quality of their lives.

Argentina

According to the Additional Survey on Indigenous Populations, published by the National Institute of Statistics and Censuses (INDEC), the indigenous population in Argentina is about 600,000. A census was conducted in 2010 but was criticized by minority and indigenous activists for lack of accuracy and under-counting of Argentina's African descendant population and the 19 indigenous peoples. These include Mapuche, Toba, Wichi/Mataco, Guaraní/Mbyá, Chiriguano, Quechua and Aymara.

According to local MRG partner organization Casa de la Cultura Indo-Afro-Americana, a major preoccupation of indigenous communities during 2011 continued to be insecurity over land-ownership and the many problems and delays they encounter when trying to obtain legal titles. Indigenous people such as the Toba, Wichi/Mataco and Mapuche continued to be especially concerned about the lack of dialogue and participation prior to the start of resource extraction and other economic projects on their lands. In many instances, land traditionally occupied by indigenous groups was appropriated by the authorities, especially at the provincial level.

This contributed to conflicts between indigenous communities and private resource extraction companies, which, in contrast to the affected groups, are significantly facilitated by legal authorities and the judicial system.

Natural gas explosion

According to the US Department of Energy, Argentina possesses the world's third largest potential reserves of unconventional gas – 774 trillion cubic feet. Reports by Argentina's Neuquen Observatory on Indigenous Peoples' Rights indicate that of the 59 Mapuche communities in southern Argentina, 19 are affected by the hydrocarbon industry or live in areas being considered by companies looking to expand exploration.

In the Chubut province in Patagonia, an oil concession granted in June 2011 prompted Mapuche Tehuelche communities to hold a *trawun* (parliament) in mid-October to evaluate the impacts of the industry. In Chaco province, 12 resource extraction blocks have been created. Some affect indigenous Wichi, Qom and Moquit lands, where the local Servicios Energéticos del Chaco and the state-owned Argentina Energy Service began exploring for hydrocarbons in mid-2011.

This expansion is meeting with criticism. Members of the Mapuche community charge that the Argentine government's aggressive push to increase energy supplies by allowing oil company exploration on their lands will cause irreversible social and environmental damage. In November 2011, the Gelay Ko Mapuche community in Neuquen province blocked gas-well drilling work on their land by the US oil company Apache. Among their complaints was that they had not been consulted about the project. They demanded that the provincial government create commissions to evaluate the social and environmental impact as well as to monitor oil company activities.

During 2011, Salta province in northern Argentina was also the scene of conflict between the extractive industry and indigenous groups. In October and November, the Wichi Lewetes Kalehi and Lote 6 communities tried to stop seismic testing on their territory. They reported being harassed by the police as well as by the



Above: An indigenous woman walks near the village of Colchani, Bolivia, on Salar de Uyuni, the biggest salt lake in the world. The people of the village make a living by mining the salt.
Ivan Kashinsky/Panos.

exploration company contracted by the Unión Transitoria de Empresas Maxipetrol.

Following an 11-day visit to Argentina in 2011, the UN Special Rapporteur on the rights of indigenous peoples, James Anaya, concluded that the government must strengthen legal mechanisms securing indigenous land-ownership and establish a meaningful dialogue with communities in decisions which affect them.

Continuing marginalization

In addition to territorial issues, Argentina's indigenous peoples in their often remote locations remained concerned about the lack of access to adequate education. This includes bilingual instruction and inter-cultural exchanges to help keep indigenous languages alive while also

acquiring a standard Spanish-language education.

Many indigenous communities retain their own languages, but illiteracy rates in the country's north-east, where many indigenous peoples live, is more than twice the 1.9 per cent national average. Lack of access to bilingual education is partly due to a shortage of trained teachers; in part, this is caused by an absence of measures to facilitate university entry for eligible indigenous students.

Bolivia

Bolivia is a landlocked country, extremely rich in natural resources but with a historically downtrodden indigenous majority (approximately 60 per cent of the population). Bolivia's first indigenous president Evo Morales, has internationally championed the rights of indigenous peoples and the environment. Nonetheless, the country relies heavily on resource extraction as the main source of the revenue and foreign exchange used for national development.

In Bolivia, resource extraction is also a cottage industry. There are about 650 mining cooperatives consisting of some 75,000 mostly indigenous members, which operate in the mineral-rich but impoverished western highlands. The artisan miners extract tin, tungsten, silver, zinc and gold. Hundreds of women cooperative members work up to 14 hours a day in the freezing tunnels dug into the side of high-altitude mountains and deep underground. Previously, women miners were given the most menial tasks and were only recently recognized as cooperative partners and shareholders; now there are some women-only cooperatives. Still, women miners with little schooling and limited financial experience remain at a particular disadvantage when selling minerals to intermediary buyers.

Indigenous sceptics

In April 2010, Bolivia hosted the 'The First World Conference of the People on Climate Change'. It included the drafting of a Universal Declaration of Rights for 'Mother Earth', which assigns the earth value that is independent of human interests – including the right to be respected and cared for. However, during 2011 a number of proposed development mega-projects have caused some indigenous organizations to question the government's international stance, while their home-grown environmental and social concerns apparently go unaddressed.

In 2011, organizations such as the 1 million-member Confederation of Indigenous Peoples of Bolivia (CIDOB) continued to complain about slow progress in titling of indigenous ancestral lands and plans to establish settlements in forest reserves, including attempts by new settlers to undermine indigenous territorial rights. Indigenous groups are also concerned about plans for hydroelectric dams and the ongoing seismic testing, drilling and mining operations throughout the Amazon basin and south-eastern Bolivia. CIDOB has accused the government of using 'dishonest and corrupt prior consultation methods' to obtain approval from indigenous communities for some projects. This includes the construction of the US\$ 415 million trans-Bolivian trade/export highway linking Brazil's Atlantic coast with Chile's Pacific coast.

Highway blues

One 300 km stretch of this 1,400 km route is slated to run between the departments (provinces) of Beni and Cochabamba, crossing the Isiboro Sécure National Park and Indigenous Territory (TIPNIS). The park land is collectively owned by some 15,000 people of the Moxeño, Yuracaré and Chimane indigenous groups, who were granted collective property rights in 2009. Some organizations are opposed to any major road construction through TIPNIS, however the government argues that the road is needed to promote national integration and provide services, such as health and education to remote indigenous communities. Protests turned violent during 2011.

Critics charge that the highway project runs counter to the 2009 Bolivian Constitution, which grants broad rights to indigenous communities, and to national laws that declare TIPNIS and other collectively owned land the 'inalienable and indivisible' property of indigenous communities. Arguably the strongest accusations relate to Bolivia's apparent non-compliance with ILO 169 regarding free, prior and informed participation with respect to projects affecting indigenous territories. Bolivia ratified the convention in 1989.

A coalition of dissenting groups – indigenous and environmental activists, spearheaded by CIDOB – began a 500 km march from Beni to La Paz in August, to protest against the road. In September 2011, about 1,000 of the anti-highway protest marchers were stopped by police. According to media reports, security forces used tear gas and truncheons to break up the gathering. Hundreds of activists were also detained but later released. Several high-profile government officials resigned over the violent crackdown.

At the end of September 2011, President Evo Morales suspended highway construction plans. The government announced that local regions and indigenous peoples would be given a chance to vote in a referendum, although it could take up to six months or more to organize one. And in October, Bolivia's lower house approved a bill formally suspending construction of the Beni–Cochabamba portion of the highway pending a consultation with the affected indigenous

peoples. It also officially declared TIPNIS an ecological reserve that is of 'fundamental interest to the nation'. However, the delay did not meet with universal approval within indigenous circles. Towards the end of 2011, another organization, the Indigenous Council of the South (CONISUR) which represents 20 member-communities in the affected reserve, organized a march of their own – this time in support of the road project.

As Bolivia's rights advocates pointed out, the 2011 highway controversy highlighted the need for standard procedures that can be followed in prior consultations with indigenous communities. A draft bill on prior consultations had already been introduced in the Bolivian Congress. It outlines binding procedures and standard legislative and administrative guidelines for mining, logging, oil drilling or infrastructure projects. However, at the end of 2011, as observers noted, given the current dispute over the TIPNIS highway project, there could be a notable delay in the passage of this particular measure.

Lithium expansion

In early 2011 Bolivia moved a step closer to the goal of becoming a world leader in the production of lithium and its by-products – the country has the largest reserves in the world. Lithium is a key ingredient in the manufacture of the rechargeable batteries used in millions of mobile phones and laptop computers. Lithium reserves are located in the country's Salar de Uyuni, a vast expanse of scenic lakes, marshes and salt flats in Bolivia's mineral-rich south-west Potosí province. Traditionally indigenous communities in the area have relied on the Salar de Uyuni for salt harvesting, llama herding, the production of highly nutritious quinoa grains and, recently, for tourism.

With lithium sales expected to jump from US\$ 100 million to US\$ 103 billion annually over the next 20 years, a number of international corporations and governments have been seeking deals with the Bolivian government. Among these is the giant Sumitomo Corporation, which already has a stake in the controversial San Cristóbal silver, zinc and lead mine also located in the Potosí region. San Cristóbal is a large water-intensive

(it uses 50,000 litres a day) open-pit mine that threatens local soil and water quality. In April 2010, angry community protesters set fire to offices and overturned loaded railroad cars used to export minerals.

Artisanal mining has a long history in the area, and it was the Uyuni Regional Peasant Federation that initially proposed the industrial lithium mining project. Therefore, south-west Potosí's indigenous communities in general welcome the new industry. Nonetheless, there are unresolved issues related to land-ownership and resource royalties. Potosí civic and union leaders believe the department is entitled to a greater part of the lithium benefits for local development; in 2011, the government allocated just 5 per cent of lithium royalties to the area.

Additionally, some indigenous communities are especially concerned about the potential for a serious water crisis as a result of mining in an area already short of this resource for traditional agriculture and herding. Large quantities of toxic chemicals will also be needed to process the lithium. Experience in neighbouring Chile points to the possibility of chemical leaching, mountains of discarded salt, soil contamination and huge canals filled with chemically polluted water. At the end of 2011, indigenous communities in Potosí could only hope that the government's US\$ 30 million allocation for lithium waste-management and other measures to reduce environmental impact will be enough to avoid potential problems.

Brazil

A century after thousands of mainly Anglophone Afro-Caribbean workers moved into the Brazilian Amazon to build the Madeira–Mamoré 'rubber boom' railway, a new wave of Caribbean migrants is now arriving to join Brazil's estimated 90 million African descendant population. Brazil has become an increasingly attractive destination for economic migrants from Haiti, who find it difficult to get entry visas for their first choice countries – the US and France. Since the 2010 Port-au-Prince earthquake, around 4,000 Haitians have gone to Brazil in search of economic opportunity; with some 85 per cent finding employment.

In January 2012, the Brazilian authorities announced a one-off plan to grant residence visas to those Haitians already in the country while tightening border controls.

Murder of Guarani leader

Large infrastructure projects in Brazil such as dam and highway construction have played a major role in promoting expansion into the Amazon since the 1970s, bringing deforestation and land-grabbing conflicts, including the invasion of ancestral lands and massacres of indigenous people.

According to Amnesty International, in early November 2011 Nísio Gomes, a religious leader and rights defender of the Guarani indigenous group in the south-western Brazilian state of Mato Grosso do Sul, was made to lie on the ground by some 40 masked gunmen and then executed in front of his son and community members. His body was taken and three children were abducted. It is the latest incident in the decades-long land dispute between Guarani and local ranchers who – with impunity – employ hired gunmen in violent attacks against indigenous people attempting to reclaim ancestral lands. The spiritual leader and up to 70 other Guarani had recently returned to their traditional lands after being evicted by cattle ranchers some 30 years ago.

Based on federal government estimates, there are over 40,000 Guarani in Brazil. This makes them the largest indigenous group in the country. However in 2011, their existence continued to be threatened by the extensive patchwork of cattle ranching, and soya and sugar cane bio-fuel plantations illegally established on their traditional lands.

Uncontacted community

In the Amazon state of Maranhão, Awá, one of the last nomadic hunter-gathering groups left in the Amazon, now face extinction according to Survival International. In the 1980s a railway was built through Awá territory to extract massive iron ore deposits; loggers, settlers and cattle ranchers soon followed. Survival International estimates there are currently only about 350 surviving members, more than 100 of whom have had no contact with the outside world.

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Case study
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Belo Monte Dam: Drowning out indigenous protests in the Brazilian Amazon

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Belo Monte, which translates as ‘Beautiful Hill’, is located in the northern Pará state of Brazil. Ever since the federal government publicized its intention to construct a giant hydroelectric energy facility in the Amazonian rainforests of Pará, a heated national and international debate has arisen over the form, function and implications of the project – especially with respect to indigenous peoples and the overall environment. The Belo Monte hydroelectric dam project was first proposed back in 1987 by the Brazilian power company Eletrobras. Despite its massive size, it was intended to be just one unit of a monumental six-dam Amazon mega-project; however the resulting outcry led to the shelving of the other five plans. In 2005, the Belo Monte project was declared a priority by the administration of President Luiz Inácio Lula da Silva. Dam construction was then fast-tracked by the Brazilian Congress leading to increased overall momentum as well as the related controversy.

Contention within the government itself led to the resignation in late 2009 of two senior environmental agency officials. Brazil’s Federal Public Prosecutor’s Office also filed suit to stop the dam. It charged that the region’s indigenous peoples had not been consulted as required by the Brazilian Constitution (Article 231) as well as by Brazil’s obligations under ILO 169 and other international agreements.

Upon taking office in 2009, Lula’s

Case study continued

successor, President Dilma Rousseff, continued to push for construction while criticism mounted. The government argued that the massive US\$ 17 billion project is crucial for development and will create jobs, as well as provide electricity for millions of homes.

Opponents of the Belo Monte dam charge that the hydro-project offers little real benefit either to indigenous communities or to the majority of the national population. In addition to displacing thousands of indigenous people, they state that it will produce publicly subsidized energy primarily for the large privately owned extractive industries in the Amazon region.

The Belo Monte dam is expected to produce around 11,200 megawatts of power and will be the third largest in the world. When completed in 2019, the 5 km wide dam will back up the Xingu River, which is one of the main tributaries of the giant Amazon River, and flood 500 square

km of pristine rainforest land, drowning trees and wildlife and causing population dislocation.

The National Indigenous Foundation (FUNAI) – the government agency responsible for protecting the country's indigenous Amerindian population – has publicly claimed there will be no direct effects on any indigenous group. However, this does not apply to indigenous peoples on lands that are not demarcated as tribal territory. In fact, although the Brazilian government estimates that the dam will displace about 16,000 people, environmental groups such as Amazon Watch put the figure at 40,000. They point out that it will directly affect the livelihoods and threaten the survival of the thousands of Arara, Juruna and Kayapó indigenous peoples who live downstream. Environmentalists warn that diverting some branches of the Xingu River will cause abnormally low water levels during the dry season. This will likely disrupt the reproductive cycles of some species of turtles and fish that have



Below: Activists gather in Avinada Paulista, São Paulo, Brazil, to protest against the Belo Monte Dam in June 2011. *Pedro Ribeiro.*

traditionally provided food security for Amazon indigenous communities. In addition, according to electrical engineering experts, even under optimum conditions the huge costly dam will only function at 10 per cent of potential capacity during Brazil's three- to five-month dry season.

In the face of the apparent inevitability of construction, a united opposition emerged, consisting of indigenous communities, the Movement of People Affected by Dams – which claims to represent 1 million people displaced from their lands by other dams – as well as several environmental organizations and scientists. In late 2010, indigenous groups filed a complaint with the Inter-American Commission of Human Rights (IACHR). They claimed their right to free, prior and informed consent had not been respected.

During February 2011, a Brazil federal court

judge blocked dam construction citing 29 unmet environmental criteria. The government appealed the stop order. At the end of March 2011, the IACHR also asked Brazil to stop the dam's licensing process until its developers consulted with indigenous groups and environmentalists in the area.

The Brazilian government's response was immediate, uncompromising and unprecedented. The country's foreign ministry publicly rejected the IACHR request, calling its move 'unjustified'. President Rouseff also decided to immediately halt Brazil's approximately US\$ 800,000 annual contribution to the IACHR. Furthermore, the government decided to withdraw from Brazil's 2012 participation in the IACHR itself. The country suspended the membership on the IACHR of Brazil's candidate – a former Human Rights Minister under the previous administration. Shortly thereafter, in June 2011, the Brazilian environmental agency gave final approval to the dam.

In November 2011, in response to more suits filed by environmentalists and indigenous groups, a federal court handed down a ruling in favour of the project. While one judge raised concerns, another noted that while consultations with indigenous groups were 'informative', they were not relevant to the decisions made by the Brazilian Congress. Judge Maria do Carmo Cardoso argued that since the actual infrastructure of the Belo Monte dam and its reservoirs would not be physically located on indigenous lands, she saw no need for consultation with the indigenous groups. There was also special concern about her statement that 'indigenous peoples should consider themselves "privileged" to be consulted about large projects that affect their livelihoods'.

The conflicting opinions of the judicial panel as well as the fact that the case involves a constitutional issue, all but ensures that the legal turbulence caused by the Belo Monte dam and its effect on indigenous populations will continue to eddy all the way up to the Supreme Federal Court of Brazil. ■



Chile

In 2011, the acute socio-economic divide persisted between the majority population and most of the indigenous peoples of Chile, especially Mapuche people in the south and Aymara in the north.

In southern Chile, discontent over the historical loss of ancestral lands, waterways and forest resources continued to smoulder during 2011.

In the mineral-rich arid north, many indigenous Aymara men and women joined a rural-to-urban exodus, aggravated by national policies that do not recognize collective land rights.

Mapuche resistance 2011

In late November 2011, Mapuche protesters in the southern region of Araucania once again clashed with Chilean police. They demonstrated against plans to build an airport on Mapuche land; police used tear gas against the demonstrators, who were blocking the highway. In January, the Santiago Court of Appeals had rejected the Mapuche claim and ruled that the airport project could go ahead. The decision was criticized for not adequately taking into account the consultation requirements of ILO 169. The Chilean government has reportedly committed to holding roundtable talks and set aside US\$ 40 million for local development.

Earlier, in June 2011, four Mapuche prisoners being held in Victoria prison in southern Chile ended their 86-day hunger strike after Chile's Supreme Court agreed to lower their sentences from between 20 and 25 years to a maximum of 15 years. The four were charged with an October 2008 shotgun ambush on the police convoy of a public prosecutor, who lost a limb. Roman Catholic Church mediators and human rights advocates pledged to convene a commission to review the use of Chile's anti-terrorism legislation against indigenous activists.

Mapuche demonstrations and hunger strikes have been an almost annual occurrence since 1984 when the state enacted the Anti-Terrorist Law No. 19.027 during the military dictatorship of General Augusto Pinochet. The law was aimed at curbing Mapuche protests over the loss of their lands and resources. Among other controversial features, the law allows for military trials and the use of anonymous witnesses who cannot be cross-examined by the defence. During 2010, a

Right: A Mapuche woman is detained by police officers during a demonstration in support of four imprisoned Mapuche activists outside of Chile's Supreme Court in Santiago, June 2011. *AP Photo/Roberto Candia.*

total of 34 Mapuche prisoners staged a hunger strike at several facilities in south-central Chile in protest against the law. This ended after 82 days when the government agreed to amend the Anti-Terrorist Law, and to stop using military tribunals against Mapuche civilians.

Nevertheless the controversial anti-terrorism legislation was used once again against the four prisoners charged in the 2008 convoy attack. The repeat use of the law was seen as a violation of the 2010 accord and considered reason enough to mount another hunger strike in 2011.

Water resource ownership

Resource extraction and water rights affected Chile's indigenous populations during 2011. In Chile, water is not a public good nor is it any longer a resource tied to land-ownership – as it was up to the mid 1980s. Water privatization in the 1980s gave priority to commodity production for international export – grapes and other fruits, cereals and vegetables – and favoured majority urban areas.

Water management is regulated according to the 1981 Water Code and, like the anti-terrorism legislation used against the Mapuche, it was developed by the Pinochet regime. It is based on private sector development of water markets and infrastructure with tradeable water permits. Regulatory agencies are meant to provide oversight, but critics have charged that Chile's system for buying and selling water is exceptionally permissive, with little government control or environmental safeguards. They also point to growing competition for water between agro-industry operators, resource extraction industries and the nation's cities in a situation of limited supply. A 2005 reform to the 1981 Water Code addressed some social equity and environmental protection concerns but did little to alter the underlying structure. Private ownership of water resources is so concentrated in some areas that a single electricity company from Spain, Endesa, has bought up to 80 per



cent of the water rights in a large part of the Mapuche-claimed south, causing an outcry. While privatization may have encouraged infrastructure investment, academic researchers and environmentalists argue that Chile's system is inherently unsustainable because it promotes speculation, endangers the environment and allows smaller interests like indigenous communities to be squeezed out by powerful forces, like Chile's giant mining industry.

Chile's water originates in springs and glaciers high in the Andes mountains. While it is a low emitter of greenhouse gases, it is the planet's ninth most vulnerable country to climate change. One result is that many of the glaciers are melting at an increasing rate, and the Fourth Assessment Report from the Intergovernmental Panel on Climate Change (IPCC) warns that some glaciers could be gone over the next decades. This would very likely increase the competition for diminishing water rights and sharpen the existing divide.

Chile has the largest reserves of copper on the planet and is now the world's number one copper producer. Copper is primarily mined and processed in Chile's arid northern desert at sites owned by the state mining giant Codelco Chile. Water is a key ingredient in the various stages of copper extraction. The copper mines on average consume 11.5 cubic meters of water per second – in an extraordinarily dry ecological zone.

Discussion over water management in the northern copper-bearing desert is relatively recent. This zone is home to the historically marginalized and excluded Aymara and Atacameño indigenous communities, who have attracted less media attention than indigenous groups in the south. According to researchers at the University of Chile, the indigenous populations and their livestock in the north are having to leave their Andean slope villages because of acute water scarcity.

Mineral extraction industries such as lithium and copper mines, bottled water enterprises and medium-sized northern cities such as Arica, Iquique and Calama have appropriated the available water rights. They siphon off rivers and tap scarce water supplies. This has left some Atacama towns to dry out and wither.

Traditional Andean indigenous agricultural

life is centred around high water table marshes known as the *Bofedal*, used for feeding llamas and alpacas. The ecologically integrated *bofedales* need permanent water inundation to survive. If water is diverted or reduced, the sun burns the plant roots causing permanent ruin. Nevertheless in Chile, indigenous collective water rights have never been recognized by government agencies. Springs that accumulate in the mountains on indigenous lands can be traded away leaving parched *bofedales* that cannot be revived.

University of Chile researchers reported that the rights to the highland spring in one of the indigenous communities of the Salado River tributary of the Loa River were given to the copper mining giant Codelco Chile. After 1985, this cut off the community water source and caused permanent damage to fields used to feed thousands of llamas and sheep. By 2011, the Saldo River community had become almost completely depopulated, with most of the former residents now living in urban zones.

In Tarapaca, the national electric company of Chile and the Department of Irrigation diverted the natural flow of the high plateau Lauca River for irrigation in the Azapa Valley and hydro-electricity for the city of Arica. The springs dried up and this affected the *bofedales*. Pastoralists had to reduce their herds or move to the city.

At Chusmiza, a remote *altiplano* Andean village rich in warm sulphur springs, Aymara engaged in a seven-year legal battle against a mineral water bottling enterprise they claimed had illegally deprived them of their land and water sources. In 2009, they won the right to suspend the bottling business but failed to gain the water concession itself.

Indigenous residents claim that Quillagua was formerly a unique oasis in the Atacama desert, fed by the Loa River, until mining companies bought up much of the water use rights. According to the University of Chile, in 1987 the military government reduced the supply of water to Quillagua by more than two-thirds. Then, in 1997 and 2000, during the critical rainy summer months, two episodes of contamination killed off the shrimp and ruined the river for crop irrigation or livestock. An initial study concluded that the 1997 contamination – including heavy metals associated with mineral processing – had

probably come from a Codelco copper mine. Codelco denied any responsibility, and blamed heavy rains for sweeping contaminants into the water. Chile's regional Agriculture and Livestock Service refuted Codelco's findings and attributed the contamination to human actions. According to the head of the Aymara indigenous group in Quillagua, without suitable water many residents responded to outside offers to buy the town's water rights. They sold and left. The mining company, Soliloquies (SQM) ended up buying about 75 per cent of the rights in Quillagua. By 2011, the once shrimp-filled Loa had been reduced to a polluted trickle running through the town. Just 150 residents were left in what was once a settlement of over 800 people and which for the past 37 years has appeared in the *Guinness Book of World Records* as the 'driest place on earth'.

With water sources diminishing and the *bofedales* drying out, the carefully constructed terraces on the Andean slopes – that had sustained Aymara for thousands of years – continue to be abandoned and the rural-to-urban exodus accelerates. In 2011, dislocated indigenous populations continued to migrate to northern cities such as Calama, Arica and Iquique.

Arica

Of the more than 100,000 Aymara in northern Chile, the majority – approximately 60,000 – now reside in Arica. The coastal city – a tax- and duty-free zone – is Chile's most northern city, located 19 km from the border with Peru, and serves as the Pacific exit port for landlocked Bolivia. Culturally diverse Arica is also home to a significant Afro-Chilean population of approximately 8,000. Activists from the Afro-Chilean Alliance have been increasing efforts to achieve official recognition of Afro-Chileans as an ethnic group in a country where diversity has never been a part of national policy.

After almost four years of concerted negotiations with the Chilean government – during which official promises were publicly given and community hopes raised – in September 2011, the state officially rejected the request to include questions about Afro-Chilean demographics in the 2012 census. Economic reasons were cited for the exclusion.

Chile's nationalism, which focuses on promoting cultural homogeneity, ensured that Arica's large Aymara population – although officially recognized – also remained socially marginalized. Even more, in 2011 they continued to be widely regarded as indigenous migrants from Peru or Bolivia – not as home-grown descendants of the first peoples of northern Chile, who have been dispossessed by the country's water resource extraction policies.

Colombia

The efforts to reclaim or remain on ancestral lands and protect basic rights continued to be a major focus of many indigenous peoples and African descendants in Colombia during 2011.

Along with what they see as systemic socio-economic and political exclusion they continued to feel the worst effects of the long-running internal armed conflict. Although arguably less pervasive than in previous years, the negative impact of the conflict on these populations continued, along with the state's unswerving policy of total eradication of insurgency groups. Reports by Colombian think-tank Nuevo Arco Iris indicated a 10 per cent increase in attacks compared to 2010, as both sides struggled to regain or retain strategic territory. Most of this occurred in rural zones with majority Afro-Colombian and indigenous populations. They continued to be targeted as suspected collaborators by both sides and to experience assassinations, bombings and high displacement levels during 2011 – especially in the northern Cauca department.

The Presidential Agency for Social Action and International Cooperation (Acción Social) reported that between 2010 and 2011 some 86,312 people were displaced nation-wide. However, based on independent monitoring, the Colombian NGO Consultancy on Human Rights and Displacement (CODHES) puts that figure at 280,000.

According to a CODHES report released in 2011, from 1985 to 2010 some 5.2 million people (11.4 per cent of Colombia's population) have been internally displaced – the highest rate of internally displaced persons (IDPs) in the world.

The ongoing counter-insurgency programme

was launched in 2007 during the presidency of Alvaro Uribe. It was described as an initiative to bolster investor confidence and help realize 'democratic security policies'. Half of the total number of Colombia's IDPs fled their areas during President Uribe's eight years in office. Officially called the 'National Plan for the Consolidation of Territory', it was implemented in 86 of Colombia's 1,141 municipalities. According to CODHES, of the 86 municipalities involved in the programme, 44 had the highest rates of violent land seizure, massacres and people killed.

Moreover, CODHES reports that transnational mining industries are now active in 21 of those 86 municipalities, and large-scale mono-crop cultivation of oil palm, teak and rubber as well as cattle-rearing is occurring on 'consolidated territory' in 14 others. Much of this is fertile communally held land claimed by displaced indigenous and Afro-Colombian communities, most of whom are small-scale or traditional subsistence farmers.

The Victims' Law

After nearly five decades of armed conflict and millions of IDPs, in June 2011 the Colombian Congress passed the landmark Law 1448, entitled the Victims and Land Restitution Law (Victims' Law). Government sources explained that Law 1448 seeks to restore to rightful owners some 17 million acres of land stolen over the past 25 years and also to assist and compensate the relatives of those killed. Observers cautioned that implementation could be an enormous challenge and, according to the BBC, officials estimate it could take up to a decade to realize and cost US\$ 20 billion (£12.3 billion).

Although Law 1448 is seen as a step in the right direction, critics point to the failure to compensate all of those affected. Reparations are being directed at those who were victimized from 1 January 1985 onwards; however, there are concerns about coverage for victims of more recent crimes committed by the so-called 'neo-paramilitaries' or 'criminal gangs'. These are the successor groups that arose following the 2005 official demobilization of Colombia's main paramilitary umbrella organization – the Self-defense Forces of Colombia (AUC). By many accounts, these outlaw bands of well-armed

mercenaries continue to be the most active land disposers.

During 2011, rural farmers, Afro-Colombian and indigenous community groups indicated that these paramilitary gangs, operating under names such as 'Black Eagles', 'Los Rastrojos' (Field Stubble) and 'Gaitainistas' (The Baggpipers) continued intimidating, displacing and assassinating victims with impunity. This includes targeting those who work to improve the living conditions or secure the rights of rural populations. In early 2011, a threatening leaflet signed by the self-styled 'urban commandos' of 'Los Rastrojos' was received by human rights defenders and UN agencies. Rights activists and advocates have learned not to take such threats lightly.

Apart from the general issues of Law 1448, perhaps the biggest initial surprise for indigenous and Afro-Colombian communities was the non-inclusion of reparation allowances for their populations. This is despite their being among the main victims of the conflict and being repeatedly subjected to forced displacement, killings, rapes and abduction.

NGOs such as MRG partner CIMMARON (Movimiento Nacional por los Derechos Humanos de las Comunidades Afrocolombianas) estimate that nearly 30 per cent of all IDPs – approximately 1.5 million – are of African descent. In addition, although indigenous Colombians constitute only about 3 per cent of the estimated 45 million national population, Acción Social indicates that indigenous people make up a disproportionate 15 per cent of the IDP total.

To address Afro-Colombian and indigenous exclusion from the Victims' Law, the government introduced a separate provision granting special powers to President Juan Manuel Santos to enact an executive legal decree. It was to be shaped by a six-month process of free, prior and informed consultation with the respective communities. While a group of Afro-Colombian organizations established an informal consultative roundtable, the state opted to use its own Consultative Commission for Afro-Colombians and to run consultative commissions at the departmental (provincial) levels. Afro-Colombian organizations such as the Proceso de Comunidades Negras

en Colombia (PCN) and the Afro-Colombian Solidarity Network (ACSN) argued that the state's commissions were mandated purely by government edict and not properly free. They petitioned for direct local-level participation in the consultation process, but this did not occur. As CIMMARON explained, Colombia's African descendant population numbers over 15 million, so their communities are by no means monolithic.

Enter Law 4635

Nonetheless in early December 2011, President Santos decreed Law 4635, thus creating a mechanism for government compensation and assistance to displaced Afro-Colombians and indigenous peoples. Members of the PCN and the ACSN – among others – once again charged that Colombia's black, Raizal and Palenque communities had been denied their constitutional right to prior consultation and informed consent. They especially pointed to the lack of any preparatory meetings with the state to discuss draft texts and establish the overall consultation methodology.

In contrast to the Afro-Colombian experience, according to the University of the Andes, indigenous communities were able to establish a national-level roundtable (Mesa Permanente de Concertación Indígena) which first met with the government to agree on the basic methodology to be used during the consultation process. The indigenous roundtable prepared its own draft decree with special provisions and negotiated with the government over reconciling their draft with the government's version. They also agreed on the modalities of the prior consultation.

Issues of return

Nonetheless, with land rights being central to the Colombian conflict and military offensives again on the rise, advocacy groups argue that ensuring the safe return of Afro-Colombians and indigenous people to their ancestral lands ultimately will determine the usefulness of the new legislation. NGOs including Human Rights Watch have highlighted the difficulty of protecting those attempting return while violence and dispossession are still occurring and strong links remain between various political actors and the paramilitary groups responsible for clearing

the lands of people in the first place.

Colombian rights defenders caution that attempts to return dispossessed lands could initiate a new wave of violence and expulsions. Many of the armed groups have become quite wealthy by selling vacated lands to large agro-industry and mining transnationals.

During 2011, several local leaders who campaigned for community land return were killed. According to Reiniciar – an NGO that represents a group of victims in a case before the IACtHR – over 19 human rights defenders were murdered in Colombia during 2011, bringing this total to 104 over the past four years.

In June 2011, Ana Fabricia Cordoba, a noted female Afro-Colombian leader of displaced communities and a member of the Ruta Pacífica de las Mujeres (Women's Peace Route), was assassinated on a Medellín city bus by a gunman. Local human rights organizations indicated that she had accused the Medellín police of supporting the local far-right paramilitary structure and had reported multiple death threats but obtained no protection. Her husband and son had previously been killed.

Observers also note that even if people return they are unlikely to find any of their former structures, infrastructure or even the landscapes they once knew. The PCN cites the case of African descendant communities (Jiguamiando and Curvarado) in the Choco department, where in February 1997 4,000 people were forced to leave their homes by the army and right-wing paramilitaries. Undaunted, the communities decided to fight for their territorial rights.

In late 1999, when the communities returned as part of a process of restoring rural property, they found that their 35,000 hectares of communally held lands had been acquired by bio-fuel investors and overrun with large palm oil plantations and other monoculture crops. The area had been clear-cut and the soil degraded. In March 2011 after nearly 14 years of death threats, leadership assassinations and community intimidation by both state agents and armed illegal groups, the government finally officially titled 25,000 hectares to these victims. However, the state offered no assistance for land clearance of the large palm trees or the re-establishment of the victims under safe physical conditions. PCN claims that persecution

by 'neo-paramilitaries' has continued, despite complaints to local and national authorities, and at the end of 2011 the communities were still unable to enjoy a peaceable return.

Ancestral mining

According to Afro-Colombian activists, the difficulties with inclusion in Law 1448, plus the lack of social investment in their communities, as well as ongoing land dispossessions are all occurring in a developmental environment that privileges large-scale export-oriented resource extraction and agro-industries. This is at the expense of traditional economies of self-sufficient small-scale farming and artisan mining which are still practised by rural Afro-Colombian communities – and in which women play a key role.

The Colombian government's policy of 'modern efficiency' is not only encouraging expropriation of community lands for industrial mining. It is also specially targeting small-scale low-impact community artisan miners with proposed new legislation to make such practices illegal.

The Colombian Network Against Large-scale Transnational Mining estimates that nearly 40 per cent of Colombian territory is now given as concessions for industrial mining projects by large UK, Canadian and US-based transnationals.

In 2011, the Afro-Colombian La Toma gold mining community of northern Cauca – which was established in 1637 – continued to resist land loss and the inroads of giant transnational industrial gold mining companies such as AngloGold Ashanti, whose mining practices, they argue, can cause significant environmental damage.

According to the PCN, as a result of their fight to protect their land rights, for the past three years the Community Council leaders of La Toma have been facing death threats from local paramilitary gangs. Nevertheless, in mid-2011, on the grounds that the Afro-Colombian communities were not informed or consulted about the impact of the government's plan of action on their territories, Colombia's Constitutional Court ruled against the policy of trying to outlaw artisan mining in favour of intensive industrial extraction. Local community leaders remained doubtful, as such big economic interests are at stake.

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Case study
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Afro-Colombian women defend their heritage

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'I'm really proud of mining, of course. In this region most women are miners, because that's how we earn a living to raise our kids. For me it's really unfair, because there are people who come from other places to occupy our mines. I mean, they want to come and take over territories where there's mining. The mines should be just for people from here, we make our living from mining, and if they come and take the fruits of our labour away from us, then what will happen to us? We'd have to leave here, but I think the only way we would leave is in our coffins.' Jazmín Mina, an Afro-Colombian woman miner.

Afro-Colombians have been carrying out small-scale, ancestral mining in the Cauca region of Colombia since the days when their emancipated enslaved ancestors settled here in 1637 to mine the gold found in the hillsides. Today the miners' descendants continue to chip away at the red earth in search of small

Below: Jazmín Mina, an Afro-Colombian miner. MRG/Morris Producciones.



specks of gold, and see it not only as a means of earning a modest living, but also as an activity intrinsically linked to their culture and ethnicity.

One of the most important towns in the area with a large population of Afro-Colombians was Salvajina. It was blessed with plentiful natural resources, fertile farmland, abundant water sources and, most importantly, huge reserves of minerals beneath the soil.

In 1985 the Colombian government decided to build a vast hydroelectric plant on the Cauca River. The subsequent flooding of the surrounding area meant that around 1,300 Afro-descendant families were displaced to the nearby town of La Toma, where, as compensation for the upheaval they had experienced, the government promised them electricity, running water, health care and schools. In 2011 the Afro-Colombian residents of La Toma were still waiting for those promises to be honoured.

Between 2002 and 2010, while gold prices soared on world markets, Colombia's government gave out 7,500 mining exploration titles to national and foreign mining companies, such as AngloGold Ashanti, eager to exploit the precious resource. In La Toma, many of these concessions overlapped with areas where Afro-Colombians have practised ancestral, family-run mining operations for generations.

Afro-descendants and indigenous communities in Colombia have the constitutional right to be consulted prior to resource extraction projects in the areas where they live. But La Toma residents, who were never consulted before mining titles were granted, decided to take the matter to Colombia's Constitutional Court. In April 2011, the court made a decision to suspend all further mining titles in the area – requiring that title-holders carry out 'adequate consultation' before proceeding with further mining plans. The decision is a victory for La Toma, but only time will tell if it will be effective in halting powerful multinational mining interests. ■

Ecuador

In early October 2011 in the Andean highlands of southern Ecuador, Canadian company Iamgold's Quimsacocha extraction project was voted down by a community referendum. It overwhelmingly rejected mining, with 92 per cent of people voting against.

According to the government, however, the referendum is invalid because it was not authorized by state institutions. In contrast, CONAIE (the Confederation of Indigenous Nationalities of Ecuador) – the country's most powerful and influential indigenous umbrella organization – not only actively supported the referendum, but also strongly advocated it should be replicated wherever communities are affected by mining. During 2011, other local governments also called for a total ban of mining activities in jurisdictions where such projects are located.

The Andean community referendum – the first of its kind in Ecuador – raised basic constitutional questions regarding autonomy, the extent of state powers and the rights of local governments to control land use and regulate industries.

Since 2008, indigenous organizations in Ecuador have become increasingly critical of government policies on water rights and exploitation of natural resources. They complain that the government has been attempting to divide the indigenous movement over these issues. According to the CONAIE, there are currently 189 indigenous Ecuadoreans charged with terrorism, sabotage and other public safety-related crimes and for protesting against the privatization of natural resources. These include the president of the CONAIE and three other prominent indigenous leaders who have been protesting against state control of access to water. Meanwhile, President Rafael Correa has accused protesters of 'standing in the way of development' and argues that resource extraction revenues can be used to develop other economic sectors such as agriculture.

Words or deeds?

The conflict is all the more pertinent given that, after his 2009 second term re-election, President Correa has spoken out vigorously

on environmental justice. As in Bolivia, his administration pioneered the granting of special rights to 'Mother Nature' in the 2008 Constitution and has made public gestures towards ending the extraction economy. Ecuador is South America's second largest oil exporter to the United States. Oil revenues account for more than half of the national budget; there are an estimated 1 billion barrels of heavy crude in the Amazon bordering Peru. At the UN in May 2007, President Correa made an innovative offer to leave Ecuador's largest oil reserves underground in the Amazon. The country was willing to forego an estimated US\$ 9.2 billion in revenues in exchange for international community compensation and debt cancellation for conserving the biosphere. However, by early 2011 there were plenty of promises but very little real cash. Some countries, such as Germany, that initially made financial commitments to the fund had actually withdrawn their offers.

At the end of 2011, this seems to have left the government little choice but to proceed with exploration plans in an area of pristine Amazon rainforest which is home to the nomadic Tagaeri and Taromenane – indigenous groups who voluntarily reject contact with the outside world. This will not only elevate the risk to indigenous communities of more environmental disasters like the Chevron-Texaco oil spills in the Amazon but also increase chances of the extended litigation that seems to be required in trying to obtain redress.

Chevron

In February 2011 – after nearly two decades of litigation – an Ecuadorean court found the American oil giant Chevron liable for US\$ 18 billion in damages stemming from contamination caused by Texaco. Between 1964 and 1990, Texaco – which merged with Chevron in 2001 – drilled roughly 350 wells across 7,000 square km of Amazon rainforest. The company made some US\$ 30 billion in profits.

In 1993, Texaco was accused by Amazon indigenous communities of dumping 68 billion litres of toxic materials into Amazon streams and rivers that people used for fishing, bathing, swimming and drinking water.

The lawsuit was filed on behalf of 30,000

indigenous and *mestizo* (mixed) members of some 80 rainforest communities who demanded the company clean up the pollution and pay reparations for the health damages. The trial opened in November 1993 in the US Federal Court, but after nine years of hearings was then moved to Ecuador in October 2003 – at Chevron's request. During the trial, Chevron admitted that Texaco had deliberately discharged 68 billion litres of toxic 'production water' directly into the environment. Texaco also created and abandoned more than 900 unlined waste pits that seeped pollution into the earth, spilled more than 17 million gallons of pure crude oil into the rivers and streams and continually 'flared' contaminants without any environmental controls. However, Chevron argued that Texaco spent US\$ 40 million cleaning up the area during the 1990s and also signed an agreement with Ecuador in 1998 absolving it of any further responsibility. Nonetheless, environmental activists visiting the Amazon site in 2009 wrote about finding a tangled jungle landscape with oil slicks, festering sludge and rusted pipelines.

The plaintiffs accused Chevron of trying to hide the extent of its environmental crimes and cited ailments such as leukaemia, cancers, liver failure and respiratory and skin problems. Eventually, in February 2011, after nearly 18 years of legal struggle they won the historic US\$ 8.6 billion verdict, which was more than doubled after the company failed to make a public apology. The judgment was also enforceable in the US, based on the 2003 trial relocation agreement.

The Ecuadorean court also found that Chevron repeatedly tried to delay the proceedings as well as threatened judges in efforts to evade liability. Chevron appealed the sentence, and then sued the indigenous plaintiffs in the US, citing Ecuador's violations of the US–Ecuador Bilateral Investment Treaty and international law. The oil giant also took its case to the International Permanent Court of Arbitration in The Hague, which, in February 2011, ordered Ecuador 'to suspend any judgment against' Chevron. In September 2011, a US appeals court overturned a decision to block the fine collection and at the end of 2011, an Ecuadorean appeals court upheld

the 14 February 2011 ruling in all its parts.

The Amazon petroleum contamination by Texaco is considered by many to be the worst oil-related disaster on record, surpassing the 1989 *Exxon Valdez* oil tanker spill on the coast of Alaska as well as the 2010 BP deepwater rig explosion oil spill in the Gulf of Mexico. However, in a further example of the long uphill battle indigenous litigants can face against powerful resource extraction companies, Chevron challenged the fine, arguing that lawyers and supporters of the indigenous groups conspired to fabricate evidence.

Guatemala

As in other countries in the region, resource extraction also had an impact on indigenous peoples and minorities in Guatemala during 2011. In late December 2011, the Inter-American Commission on Human Rights (IACHR) withdrew an earlier recommendation to suspend operations at the controversial Goldcorp Marlin gold mine in the Guatemalan province of San Marcos.

The facility, located near the border with Mexico, has been the subject of an ongoing series of human rights-related complaints by indigenous communities. In addition to the IACHR, the ILO's Committee of Experts and the UN Special Rapporteur on the rights of indigenous people had also recommended operation suspension until local communities are adequately consulted. Moreover, the Canadian mining company's own human rights assessment had also advised the company to halt land acquisition and mine expansion pending community consultations.

According to the NGO Mining Watch Canada, just prior to the IACHR ruling reversal, the Guatemalan government, in conjunction with a company-sponsored water committee, released a hydro-geological study that apparently contradicted the perceptions of local Mam Maya communities that the Marlin mine is contaminating their local water supply and should be closed.

Although the report's lack of impartiality was questioned, it seemed enough to prompt the IACHR to rescind its decision. In Guatemala, environmental impact studies cited by the government are usually financed and contracted

Case study

Guatemala's agrofuel plantations feed land dispossession

Ever since the Spanish Crown granted colonial land titles for what were ancient traditional Maya lands, indigenous communities in Guatemala have been involved in a continuous struggle for land rights.

In mid-March 2011, hundreds of Guatemalan army and police anti-riot personnel using live ammunition and tear gas, evicted thousands of residents of 14 small Maya Q'eqchi' villages located in the municipality of Panzos, Alta Verapaz, in the fertile Polochic River Valley. According to the Guatemala Solidarity Project (GSP), the affected Maya Q'eqchi' – who were regarded as 'land invaders' – were given an hour to gather all their possessions and were not allowed to salvage their crops, which were close to harvest. Following the government security crackdown, masked paramilitaries hired by a privately owned sugar cane company reportedly dismantled and burnt hundreds of homes and destroyed crops.

With nowhere to go, some 800 Maya Q'eqchi' families – including thousands of children – were left to camp out in the rain with no shelter or food; many on the sides of roads. According to local leaders, the raids came just one day after a community delegation had met with the big land-owners in a government-negotiated meeting. The impending eviction was never discussed.

While this can be seen as another clash in the long-running post-colonial struggle between the indigenous people of the area and settler families of European origin, there is now a bio-fuel element involved. At issue is

Case study continued

access to traditional Maya Q'eqchi' ancestral land in one of Guatemala's most fertile river valleys. During the 36-year Guatemalan civil war, the Maya Q'eqchi' of Panzo – like many other indigenous communities – experienced massacres and were driven off ancestral lands into the Sierra de las Minas mountains. The subsequent post-conflict peace accord allowed for return and the promise of territorial security. By 2000, with credit available to allow rural communities to buy land, dozens of Maya Q'eqchi' communities believed they were close to finally gaining land deeds. However, the bio-fuel boom was about to change all that.

This came in the form of Guatemalan sugarcane refining interests, reportedly with strong links to the sitting government. They were able to secure large loans of up to US\$ 31 million from regional and multilateral development banks, which enabled the company to move sugar and ethanol refining operations away from traditional cane-producing zones on Guatemala's south-west coast and relocate them across the country in the Polochic Valley. Meanwhile, between 1998 and 2006, palm oil production was introduced into the valley. According to estimates by the Guatemalan National Institute for Agrarian and Rural Studies, between 2005 and 2010 the area of the country given over to oil palm plantations increased by 146 per cent.

In the Polochic Valley, both palm oil producers and the newly arrived sugar ethanol interests began a systematic land assembly process. According to Oxfam, this often involved negotiating sales or rental of small farms accompanied by thinly veiled death threats to discourage refusals. The agrofuel producers then appropriated the farms and evicted the indigenous residents to create the large sugarcane and palm oil plantations. Along with the displacement of thousands of indigenous peasant families, the need for large amounts of irrigation water has prompted diversion of the Polochic River. Environmentalists claim this has destroyed wetlands and ruined surrounding farms, when unprecedented annual floods result as the river tries to regain its channel.

According to local media, in 2009 the sugarcane planting initiative went bankrupt and the lands were left abandoned. This encouraged the historically dispossessed Mayan Q'eqchi' to begin moving back down from their refuge in the nearby mountains. They re-established settlements on the lands they formerly occupied before the consolidation process and began sowing subsistence crops. In a region with high rates of malnutrition, this cultivation is vital to ensure that the impoverished families barely avoid starvation.

However, in late 2010 a solution was developed for the bankrupt sugar company involving recapitalization with investment by the largest exporters of sugarcane-produced ethanol in Central America – who have also expanded into palm oil cultivation. As a result, in February 2011 local radio stations began running advertisements reportedly paid for by the sugar company calling on former cane workers to evict the indigenous families from the plantation lands. A few weeks later, in mid-March 2011, the armed government security forces and plantation paramilitaries moved in to get the job done.

Between March and August 2011, private helicopters were used to drop grenades on the cornfields that survived destruction, aimed at intimidating the families trying to harvest the crop. Community land rights defenders were also threatened and murdered and families attacked at night by masked paramilitary forces.

In June 2011, the Guatemalan Human Rights Commission and a coalition of local and international organizations petitioned the IACHR which approved precautionary protective measures for the 14 communities. It called on the Guatemalan government to take concrete steps to 'prevent irreparable harm' to the communities and persons at risk.

In addition to questioning the social disruption of indigenous people in the Polochic Valley, critics have accused Guatemalan bio-fuel producers of being more interested in profiting from climate change subsidies than in meeting climate change goals. These subsidies include the UN Framework Convention on Climate Change's 'Clean Development Mechanism' (CDM). Since 2008 almost all the palm oil extraction companies in Guatemala have received

CDM certification, allowing access to the available financial credits and making it possible to expand their activities.

With recognition that bio-fuel production was actually devastating environments and communities around the world, the World Bank and the Inter-American Development Bank placed a freeze on bio-fuel loans while they prepared so-called 'sector strategies'. One of these strategy mechanisms – the Round Table on Sustainable Palm Oil (RSPO) – is supposed to help identify 'environmentally friendly' palm oil producers. Two of the large Polochic Valley producers have received RSPO certification. This allows them access to additional financing, thus making it potentially possible to expand production even more – onto land claimed by indigenous people. Even less favourable for the displaced in the Polochic Valley is that the new version of the programme for Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (REDD+) allows palm oil plantations to be considered as green 'forested' areas and earn carbon capture credits. It therefore also provides an additional incentive for Guatemala growers to keep expanding sugarcane and palm oil acreages under cultivation.

Meanwhile, in the Polochic Valley at the end of October 2011, the intimidation, sporadic attacks and displacement were still continuing, and the Commission of Petitioners for Preventative Measures was forced to denounce the failure of the Guatemalan government to comply with the precautionary measures recommended by the IACHR. No aid had reached the affected families, and nothing had been done by the government to resolve the land conflict.

By year's end, as Guatemalan bio-fuel enterprises continued to position themselves to benefit from multi-million dollar international climate change reduction payouts, the evicted indigenous Mayan Q'eqchi' of the Polochic Valley were left landless, homeless and at the mercy of whatever charitable handouts they may happen to receive from those sympathetic to their plight. ■

by the mining companies themselves.

Critics, including the Guatemalan Constitutional Court, have noted the permissive mining climate encouraged by the Guatemalan government and, in 2008, even deemed some practices unconstitutional. These include Articles 19 and 20 of the country's Mining Law, which lets extraction begin while the relevant paperwork is still being processed, and Article 75, which allows mining companies to discharge tailings pond effluents directly into surface water.

Despite the ruling reversal, the IACHR did retain some precautionary measures. It ordered that Guatemala now has an ongoing obligation to ensure that community water quality is suitable for domestic and irrigation uses. It also requested the government to advise the IACHR on how this duty is being fulfilled.

The Center for International Environmental Law (CIEL) and Mining Watch Canada cautioned that the IACHR decision represented an alarming trend in the Americas, that regional member states now seem to be able to force and even threaten the organization into weakening its human rights decisions. As further evidence, they cited the earlier 2011 ruling reversal, when the IACHR backed away from its order to the Brazil government to halt construction of the controversial Belo Monte dam.

Honduras

Two years after the June 2009 coup d'état in Honduras, African descendant Garifuna as well as indigenous peoples have been attempting to regroup and recover lost socio-economic and political gains, including the ability to teach the Garifuna language in schools and to be informed of and included in land negotiations.

In 2011, a Constitutional Assembly of Afro-Honduran and Indigenous Women was held in the town of Copán Ruinas. According to the female Garifuna leader and coordinator of the Fraternal Organization of Black Hondurans (OFRANEH), the major objectives of the 300 women – representing Lenca, Maya Chortí, Garifuna, Tawaka, Miskito, Pech and Tolopan indigenous groups – was to strengthen alliances to ensure greater inclusion of female voices and experiences at both community and national decision-making levels. They also sought to

examine a number of their specific gender concerns such as ethno-cultural and institutional invisibility, which they argue go mostly unaddressed within the international women's rights movement. Of special overall concern were issues related to community autonomy, resource extraction and territorial loss. The dispossession of communal lands of African descendant Garifuna, Miskitu and indigenous peoples – to establish tourist enclaves and especially to enlarge palm oil plantations – has advanced very rapidly over the past decade. These groups have not only been deprived of territory but also excluded from any benefits. Garifuna have been killed, threatened and economically pressured to give up their territory according to OFRANEH.

Only 20 per cent of Honduras land area is arable. Approximately half of that is located in the Caribbean Coast departments of Atlántida and Colón – an area where Afro-indigenous Garifuna have traditionally established communities and farmed on communally held territory dating back to 1797. Garifuna organizations point out that approximately 95 per cent of the 300,000 Garifuna who reside in Honduras live in the communities within these two departments. Wealthy and powerful commercial and political elites in Honduras now desire this coastal property and are aided considerably by policies of international financing institutions and global investors.

Since passage of the 1992 Agricultural Modernization Law which prioritized profitability, the Honduran government has supported the removal of 'backward' Garifuna and small farmers from what are deemed 'unproductive' lands to install capital-intensive export-oriented oil palm plantations and also tourism projects. The US Department of Agriculture's Foreign Agricultural Service (USDA-FAS) reported in 2009 that 1,150 square km – half the cultivable land in Honduras – is devoted to oil palm.

Consequently in 2011, Garifuna in Honduras continued to see the major portion of their lands overwhelmed by vast mono-crop oil palm plantations, further limiting their access to productive soil and fishing sites. In Garifuna society, women are the main cultivators and traditionally land is passed along matrilineal

lines, so land dispossession has dealt a particularly strong and direct blow to women.

Adding to the land loss, during 2011 the Honduran National Congress approved plans to establish separate development regions with model 'charter' cities on Garifuna communal lands. These special new zones would in effect be an independent territory – virtual city-states within the country, each with its own governor, its own laws courts, private security forces, independent international trade relations, authorized inhabitants and manufacturing complexes under the complete control of foreign corporations.

Garifuna have resisted through highly visible pre- and post-coup political demonstrations and protests, as well as via their bilingual community radio station Faluma Bimetu, which suffered an arson attack in 2010. This and other radio stations created the Honduran Community Radio Network in 2010, to enhance their activities. The fact that their broadcasts regularly denounce the seizure of ancestral lands, and the related harassment and murders by armed paramilitary groups puts them at special risk. And in 2011, Congress considered suspending the granting of frequency permits and licences for low-power stations – citing airwave over-saturation.

Meanwhile, those involved in palm oil production in Honduras face weak oversight mechanisms. In July 2011, the UN Clean Development Mechanism Board (CDM) approved a palm oil biogas project of the Honduran company Grupo Dinant. This company has been involved in land conflicts in the Aguan Valley, which indigenous and other activists have linked to serious human rights abuses, including some 50 killings. In August 2011, one month after the CDM Board decision, Biofuelwatch.org reported that 12 more people were killed in land disputes in the Aguan area. Six of the murders reportedly took place on oil palm plantations. Over 900 Honduran Armed Forces personnel were sent to guard the plantation zone, where heavily armed palm oil company security forces were already deployed.

Consequently, at the end of 2011, affected indigenous and Afro-Honduran populations found little reason for optimism. Given the long-

standing land-based nature of their societies, continued massive land loss will create enormous challenges to the ability of Garifuna communities to retain their distinctive way of life and culture, which UNESCO has listed as one of the World's Intangible Cultural Heritages.

Peru

In June 2011, former army officer Ollanta Humala won the presidency of Peru. In a precedent-setting move, he chose Afro-Peruvian Susana Baca as culture minister, making her the first African-descendant government minister in the history of the Peruvian state. Baca, aged 67, is an internationally renowned singer of the rich Afro-Peruvian musical cultural tradition and winner of a 2002 Latin Grammy.

Before his election, Humala – who campaigned as a populist – sought to assure companies they could proceed with existing and new multi-million dollar resource extraction projects. At the same time, to help ease community concerns over mining and oil drilling, he promised that Peru's natural resources would be used to improve the lives of the mostly poor indigenous and Afro-Peruvian people in the country. Nevertheless, during 2011, increasing social conflict over mining in both the indigenous Andean highlands and lowland Amazon rainforest threatened the implementation of large-scale mining and oil extraction projects. The result was an increase in mining protests involving as many as 200 disputes nation-wide.

Amazon protest

In October 2011, some 500 indigenous Shuar men and women from Peru's northern Amazon blocked the Morna River to stop Canadian energy company Talisman carrying out oil exploration on their ancestral lands. The area traverses land inhabited by Achuar, Shapra, Shuar and Kandoshi indigenous groups. It also crosses the internationally protected Pastaza River Wetland Complex, the largest wetland area in the Peruvian Amazon. Indigenous groups are particularly concerned about the risk of contamination of ancestral hunting and fishing grounds. Traditional hunting practices help guarantee food security and supplement any income gained from wage labour or other

activities.

Their protests occurred within a new legal climate in Peru. In August 2011, the new Peruvian Congress unanimously passed the groundbreaking Consultation with Indigenous Peoples Law. It will now be mandatory in Peru to seek indigenous peoples' consent before development projects are allowed to proceed on their lands. It is one of the first instances in the Americas where a binding legal framework has been developed to implement ILO 169 and the UNDRIP, both of which Peru has backed. The new law also mandates that indigenous peoples be consulted before Congress can approve any proposed law that could affect their rights.

However, despite the new legislation, engaging in prior consultations with Peruvian indigenous groups that have chosen to remain in voluntary isolation may pose a practical as well as a legal challenge. Based on sightings by neighbouring indigenous communities, loggers and other outsiders, it is estimated that more than a dozen autonomous nomadic indigenous groups live in voluntary isolation in the country's Amazonian regions. Many inhabit the remote forests near the Brazilian border, relying on their territory for subsistence. They remain highly vulnerable to easily transmitted common diseases and reject contact with the outside world, which is both the source of infections and of intrusion into their territories. Their mortality rate first spiked in the 1980s when oil exploration was initiated in the area. By the year 2000, five reserves had been established in the Peruvian Amazon basin to protect isolated indigenous peoples. In addition to existing protected areas, indigenous organizations have filed petitions for five more reserves.

New mining regulations

During October 2011, however, the Peruvian state proposed new regulations governing oil drilling, mining and forestry operations in these remote rainforest reserves.

Critics, such as Peru's largest Amazonian indigenous organization AIDSESEP, the Inter-Ethnic Association for the Development of the Peruvian Amazon (Asociación Interétnica del Desarrollo de la Selva Peruana) charged that the new regulations threaten nomadic indigenous



groups and are designed to help expand exploration and extraction into already designated indigenous reserves. Under the proposed regulations, extractive activities can be carried out in indigenous reserves deemed ‘untouchable’ under Peruvian law, provided there is a real public need and the state guarantees the use of methods that ‘respect these peoples’ rights.’ The new rules call for the establishment of a ‘comprehensive protection committee’ for each reserve, which will consist of government officials, representatives of neighbouring indigenous communities and an anthropologist. There is to be a coordinator for each reserve, as well as a strategic plan and a series of monitoring mechanisms.

At the root of the Amazon conflict are contradictory provisions of the 2006 indigenous protection law. This provides for

the establishment of reserves to protect the territory used by indigenous or original peoples in isolation; that is until they decide to settle in communities and seek legal title.

Critics question whether this is just a conciliatory initial step on the way to eventual assimilation. They also note that the regulation comes just as the consortium operating the Camisea gas field in the Peru’s southern Amazon basin plans to expand operations into a block which overlaps the Nahua-Kugapakori (nomadic) Indigenous Reserve. AIDSESP points out that oil or gas leases already overlap several indigenous reserves in Peru and the organization has so far tried without success to have the government redraw extraction leases to eliminate such overlapping to avoid the shrinkage of indigenous territories. In October, the newly constituted

Left: Andean people protest against Newmont Mining's Conga gold project during a march near the Cortada lagoon in Peru's region of Cajamarca in November 2011.
Reuters/Enrique Castro-Mendivil.

Peruvian government retreated from the planned regulations.

Cajamarca protests

Although before elections Humala pledged to use resource extraction revenues as a means of improving the lives of Peru's most disadvantaged, after taking office in July 2011 anti-mining opposition often tested his government's resolve to realize this. Most extraction projects in Peru are located in rural highland and lowland zones with majority indigenous populations, consequently it is they who are most negatively affected by mining.

In November 2011, thousands of indigenous men and women in the city of Cajamarca in northern Peru began a protest against plans by the US-based Newmont Mining Corporation to open a goldmine in the high Andes. The resistance included an 11-day general strike that closed schools, hospitals and businesses and stopped buses from running in the region.

The US\$ 4.8 billion Conga Mine Project is the biggest mining investment in Peruvian history and is located at 13,800 feet (4,200 metres) in the Andean mountains. The gold reserves are worth about US\$ 15 billion at current prices. The Conga project is jointly owned by Peruvian precious metals mining company Buenaventura, and the multi-billion dollar project had been approved by President Humala on the grounds that it would be a major source of government revenue and generate thousands of jobs. Newmont Mining had promised to provide a series of specially constructed reservoirs to replace natural glacier-fed mountain lakes that would be eliminated by the mine. In addition, the company claimed their project plans had been drawn up in consultation with local communities following 'exhaustive' environmental studies. Nevertheless, the protesters maintained the proposed new mine would destroy their natural water supplies, cause pollution and create health problems.

Newmont Mining has been operating in Peru for over two decades. To some extent, the 2011 protests represent the latest manifestations of ongoing community dissatisfaction with the mining company's presence in their region. The US company already operates the Yanacocha gold mine located near to the proposed Conga mine site. In 2000, there was a mercury spill at the Yanacocha mine, which produced lasting anger in the community. Consequently, four years later, in 2004, when the company sought to expand the Yanacocha mine onto the nearby Cerro Quilish mountain, the resulting protests brought exploration to a halt. Then as now, the issue involved pollution and reduction of water supply to communities that have traditionally regarded natural sources of water in both a practical and a spiritual light.

The mining company now runs extensive community development programmes in the area, but these have failed to diminish concerns over the potential dangers of mining. It has certainly not stopped residents from wanting to halt expansion – or, even more – from trying to stop mining in Cajamarca altogether.

Faced with daily street demonstrations, a general strike that paralysed the region for 11 days and a multi-billion dollar project stuck in its tracks, the President tried to negotiate with the protest leaders in Cajamarca. But after failing to reach any agreement, Humala felt forced to declare a one-week state of emergency.

The state of emergency suspended freedom of assembly and allowed the army to help police end the protest marches and rallies. Security forces used rubber bullets and tear gas against demonstrators, and fired live rounds after some demonstrators began vandalizing mining company property. Up to 30 people were reportedly injured. Newmont Mining then suspended work on the mine, after the government requested help in calming the situation and asked for more dialogue with the highly sceptical local community.

In early December 2011, the head of the civic association as well as the leader of the Environment Defense Front of Cajamarca (EDFC) were detained briefly after addressing a congressional panel. The EDFC leader indicated the organization's intent to file a legal

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Athabasca tar sands: Heavy repercussions for indigenous communities

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The Athabasca tar sands extraction programme in western Canada is the largest industrial project on earth. However, indigenous communities downstream from its multi-billion dollar operations have called it ‘a slow industrial genocide’.

Currently, indigenous communities in Alberta and throughout North America are battling to safeguard their lands, cultures, heritage and health against the hyper-project and its proposed transcontinental delivery pipelines.

The tar sands are a mixture of sand, clay and heavy crude oil (bitumen) lying under 140,000 square km of ancient northland old-growth forest and peat bogs in north-eastern Alberta, Canada. Historically, the tar-like bitumen was used by the indigenous Cree and Dene communities to waterproof their canoes. Today the extensive bitumen deposits are regarded by experts as the second largest source of oil on the planet after Saudi Arabia. This has implications for several indigenous communities in the area since the tar sands are located within the traditional indigenous territorial boundaries of Treaty Eight (1899). Besides land tenure, the treaty guarantees local indigenous peoples the cultural right to hunt fish and trap.

Once a sparsely populated area of pristine northland forest, clean rivers and fish-filled lakes, over the past decade the Athabasca delta – a UNESCO heritage site – has become a devastated and bare semi-desert of enormous open-pit mines and huge contaminated tailings ponds that can be seen in views of the earth from space – not to mention also on the ground by indigenous communities in their vicinity.

Four huge oil sands mines are currently in operation and two more are in the initial

stages of development. Among existing sites is the enormous Syncrude-operated mine, which is the largest open-pit mine (by area) on the globe. Even so, according to the provincial government of Alberta, only 3 per cent of the estimated bitumen reserves have been mined to date. At the projected 2015 production rate of 3 million barrels of oil per day, experts expect the Athabasca tar sands to keep producing oil for the next 170 years. This has caused indigenous communities and environmentalists on both sides of the Canada–US border to realize the extent of the challenge that may lie ahead in efforts to safeguard their rights and continued existence.

Currently, the tar sands produce about 1.5 million barrels of crude oil daily. The bulk (97 per cent) is exported to the US. This has made Canada the largest supplier of oil and refined products to the US, ahead of Saudi Arabia and Mexico. It has also led to increased interest in the tar sands project among US Native American activists and organizations.

Extraction is costly and destructive. Large-scale strip mining removes the entire surface layer ecosystem, consisting of old-growth forests, peat marsh and other habitat of importance to local fauna. This affects animals such as moose and caribou traditionally hunted by indigenous communities. According to the Indigenous Environmental Network, the Beaver Lake Cree First Nation has experienced a 74 per cent decline of the Cold Lake herd since 1998 and a 71 per cent decline of the Athabasca River herd since 1996. Today, just 175–275 caribou remain.

Tar sands extraction also burns huge amounts of natural gas. Carcinogenic emissions are released into the air and enter the food chain in an area where hunting and fishing have long been traditional survival activities. The extraction also deeply affects the strong cultural identification and spiritual connection which indigenous communities feel with the earth.

Processing

There are issues related to processing as well. Transforming the extracted bitumen into the synthetic crude oil piped to refineries in the US and Canada requires large-scale upgrade facilities that also use large amounts of water and energy,

with smoke stacks billowing pollutants into the air. According to the Indigenous Environmental Network, each barrel of oil produced from the tar sands takes from 110 to 350 gallons (or 2–6 barrels) of water. And Greenpeace reports that tar sands operations leak millions of litres of toxic waste into the Athabasca River and the groundwater.

Impact on indigenous health

The scale of the operations has prompted real concern for the well-being of indigenous populations. Heavy metals, including cobalt, lead, mercury and arsenic, are naturally present in oil sands, so consequently extremely large quantities of toxic chemicals are discharged. These end up in the Athabasca River and its tributaries, then flow northward (downstream) further into indigenous territories. Although impact assessments were among the conditions of existing agreements signed between indigenous and extraction companies, the bulk of the research defending tar sands development is done by monitoring programmes affiliated with the oil industry. But independent studies have shown high deformity rates in fish caught downstream and that other wildlife food sources have been negatively affected as well.

Since toxic tar sands waste has been entering the river, groundwater and the food chain, ultimately it may be entering humans as

well. In 2006, according to the Indigenous Environmental Network, an unusually high rate of rare cancers was reported in the community of Fort Chipewyan. In 2008, the Alberta Health Ministry confirmed a 30 per cent rise in the number of cancers between 1995 and 2006. However, the study was preliminary and many residents consider it to be a conservative estimate.

Oil pipeline distribution

Besides the impact of the tar sands, there are also legal and environmental concerns about pipeline delivery systems and refineries which threaten communities and landscapes throughout North America – especially in indigenous, rural and poor settlements. Two major pipeline projects are under consideration. One is Keystone XL, a pipeline that is intended to run from Alberta in western Canada across the North American continent to refineries on the US coast of the Gulf of Mexico. The other is the North Gateway project from the tar sands in Alberta to tanker ports in Kitimat, British Columbia. An agreement has been signed between the Enbridge Pipeline System and PetroChina to build two parallel 1,200 km pipelines from Alberta to the west coast port. Critics such as the Indigenous

Below: The Suncor oil sands plant north of Fort McMurray, Alberta, Canada.

Dan Woynillowicz/The Pembina Institute.



Case study continued

Environmental Network claim the project would cross 785 waterways, fragmenting wildlife habitats and affect fragile salmon fisheries. Indigenous environmental activists note that between 1999 and 2008, the Enbridge pipeline company was responsible for 610 spills. Moreover in 2010, it was responsible for a 1 million gallon spill of tar sands crude into the Kalamazoo River in Michigan; the second largest spill in US history. As well as environmental concerns, indigenous groups also claim the pipeline developments are in violation of commitments – particularly regarding prior consultation and consent – made through various treaties and the UNDRIP, which Canada initially voted against but then signed in 2010.

Nevertheless major oil companies, banks and investors are pouring billions of dollars into Alberta tar sands development; there are currently 64 companies operating several hundred projects, including major European-based multinationals.

Indigenous resistance

In Canada, the provincial governments are responsible for setting environmental and natural resource development policies, however responsibility for prior consultations and accommodation of indigenous concerns rests at the federal level. So far, Canadian courts have failed to define clearly what consultation means, and this is further complicated by jurisdictional issues between the provincial and federal levels. In late November 2011, the Chief and Council of the Athabasca Chipewyan First Nation (ACFN) rallied outside of Shell Canada corporate headquarters in downtown Calgary, Alberta. They stated that Shell's failure to take agreed-upon measures to lessen the project's impact has harmed ACFN's constitutionally protected rights and culture. Moreover, Shell's proposed massive expansion and new projects are in an area that is very important to ACFN's traditional way of life.

To date, there have been five tar sands-related legal proceedings brought before Canadian courts by indigenous communities. In 2007, the Woodland Cree First Nation (WCFN) filed a

suit against the Alberta government and Royal Dutch Shell over inadequate consultation about *in situ* mine expansion. In 2008, the ACFN filed a suit against the provincial government of Alberta over lack of consultation. Agreed-upon meetings and discussions were not held; nonetheless the court of appeal ruled that an Alberta government webpage entry constituted consultation. The decision is contested, as it ignores both the internet technological divide and good faith negotiations on behalf of the Canadian government. It will likely end up in the Supreme Court of Canada. In 2008, the Prairie Chipewyan First Nation also launched a lack of consultation lawsuit against the Government of Alberta regarding the mining project approved on their territory. In 2008, the Beaver Lake Cree First Nation filed a lawsuit based on 20,000 infringements of their treaty rights. The Cree are specifically concerned that Total's planned Surmont *in situ* project will further decimate caribou populations through habitat fragmentation. In 2010, the Duncan and Horse First Nations were granted a Supreme Court of Canada hearing regarding consultations over impacts on the Peace River complex, which is located in traditional territory. The community reports massive losses of wildlife and habitat fragmentation.

Pipeline protests

In addition, there are also suits and protests specifically related to the pipelines that threaten First Nations communities not only in Canada but also Native American communities throughout the US. The traditional territories of the five indigenous communities of the Yinka Dene Alliance cover approximately one-quarter of the proposed Northern Gateway route. In February 2011, they rejected the company's revenue-sharing offer, citing the risk of oil spills and accusing the company of lack of respect for their rights. According to indigenous leaders, over 80 indigenous communities in British Columbia (BC) located along more than half of the Alberta to BC pipeline and tanker route have indicated that the project is against their laws and will harm both themselves and fellow indigenous nations living near the extraction zones.

Indigenous peoples from the headwaters of the Fraser River watershed to the Pacific coast have united under the 'Save the Fraser Declaration' and are working to ban the pipeline altogether. Company offers to have indigenous communities borrow money to purchase a small fraction of the pipeline met an unfavourable response. Indigenous leaders indicate they are not willing to compromise the well-being of future generations in return for cash. In solidarity with indigenous communities from Canada, US-based indigenous communities have also sworn to stop the pipeline project. In early November 2011, thousands of protesters circled the White House in Washington to demonstrate against the controversial Keystone XL tar sands pipeline and to press President Barack Obama and the US State Department to deny the permit. In January 2012, President Obama rejected the proposal, although the project looked set to be an election-year issue.

Given its 34 million population size, Canada is a relatively large emitter of greenhouse gases. According to the Kyoto Protocol, Canada was meant to have cut its greenhouse gas emissions by 6 per cent from its 1990 level by 2020. Rather, it is heading towards a 16 per cent increase, or more like 30 per cent if forestry is included. In June 2011, Canada was criticized for under-reporting the contribution of the tar sands project to its overall emissions. The government states that the tar sands project contributes about 5 per cent, but researchers believe the figure is closer to 10 per cent. In December 2011, Canadian Minister of the Environment Peter Kent indicated that Canada will be formally withdrawing from the Kyoto Protocol, thus becoming the first country to pull out of the global treaty. He argued that withdrawal allows Canada to continue generating jobs and economic growth. Canada's indigenous communities, who live near the booming tar sands project, are already aware of what such growth means for them. ■

complaint against the government. The Conga mine controversy also led to the resignation of the Vice Minister for the Environment, who had previously headed an anti-mining NGO. He cited a leaked ministry memo that indicated the Conga mine would indeed hurt the local ecosystem despite company claims to the contrary.

At the end of 2011, the anti-mining protest marches in the Peruvian highlands were still occurring, along with continued demands by the indigenous communities to cancel the project. By all appearances, the gold that drove the destiny of the old Inca empire will continue to propel the protests of Peru's contemporary indigenous populations in 2012. ■