

## Anti-Mine Activists Encouraged by Canadian Ruling

By Danilo Valladares

*GUATEMALA CITY, Feb 16, 2010 (IPS) - Ecologists in Guatemala see a recent ruling by Canada's Supreme Court, which ordered Canadian mining companies to carry out rigorous environmental assessments, as a positive precedent that could help improve environmental controls over the mining industry in this Central American country.*

In a case that focused on a Red Chris mining company project in the western Canadian province of British Columbia, the Supreme Court ruled that the federal government could not split projects into artificially small parts in order to avoid comprehensive environmental impact studies.

In its verdict, the Court stated that under the Canadian Environmental Assessment Act, entire projects must be environmentally evaluated, and the government "cannot reduce the scope of the project to less than what is proposed by the proponent."

The ruling also said the Canadian government had acted unlawfully by excluding public input from its assessment of the planned Red Chris mine, which would process 30,000 metric tons of copper and gold a day in a pristine wilderness area.

The legal decision was met with applause and hope by environmental organisations in Guatemala, where two Canadian mining companies operate, because they believe it could have positive repercussions in terms of environmental safeguards and public participation in decision-making.

"The ruling exerts a kind of pressure for Canadian companies to live up to legal standards and not try to conceal the real impacts of their activities on the environment," Uriel Miranda, legal adviser to the Comisión Pastoral de Paz y Ecología (COPAE - Pastoral Commission on Peace and Ecology), told IPS.

COPAE is a member of the Mesa de Diálogo sobre Minería, a coalition of anti-mining and environmental groups.

In the midst of heavy local opposition, Montana Exploradora, a subsidiary of Canadian mining company Goldcorp, began to extract gold and silver in December 2005 in the Marlin open-pit mine in the highlands of the southwestern department (province) of San Marcos, on the border with Mexico.

Meanwhile, plans by Entre Mares, another of the Canadian gold-mining corporation's subsidiaries, to extract precious metals in the department of Jutiapa, which borders El Salvador in the southeast, have drawn opposition in that country. Miranda said Goldcorp must respect the Supreme Court ruling because "they themselves talk about corporate social responsibility. So at a minimum, we expect that when they seek approval of an environmental impact assessment, they will do so in line with the same standards ordered by the verdict."

The legal advisers of environmental organisations in Guatemala and other countries are studying the reach of the Supreme Court decision, as well as the possibility of bringing legal action in the courts in Canada for irregularities that Canadian corporations may commit in other countries.

"We are analysing whether there is jurisdiction to file lawsuits for shortcomings in environmental impact reports contracted by Goldcorp, which has two mining projects here and exploration permits for other mines," said Miranda. The director of the School of Ecological Thought (Savía), Magalí Rey Rosa, told IPS that the Supreme Court ruling set an important legal precedent.

"It should now be possible to turn to a Canadian court to sue companies from that country for failing to do what the verdict ordered them to do," said the activist. She added that the ruling could also serve as a starting-point to assess the environmental impact studies and procedures of other mining companies, like the Compañía Guatemalteca de Níquel, owned by Vancouver, BC-based Skye Resources.

Rey Rosa said the damages already caused by the mining industry in Guatemala are incalculable. "It has brought serious social conflicts, water sources have dried up, houses have suffered cracks and splits, while it has left us a few miserable dollars in return," she complained.

Under Guatemala's mining law, corporations must pay the state a one percent royalty, half of which goes to the municipality where the mine is located.

While Goldcorp reported 100 million dollars in profits from the Marlin mine alone in 2008, San Miguel Ixtahuacán, the municipality where it operates, received around one million dollars that year.

The mining industry's boom in Guatemala has been dizzying.

In 2009 the extraction industries had 259 permits, while another 383 applications were being considered, according to the Ministry of Energy and Mines.

Activists see the Canadian Supreme Court ruling as key to improving environmental controls over the mining industry not only in Guatemala, but around the world.

"We hope the verdict will be taken into account in all Canadian mining projects in the hemisphere, because it sets a new standard for operations, in line with international norms and legislation," lawyer Jacob Kopas with the Interamerican Association for Environmental Defence (AIDA) told IPS.

In Latin America, Goldcorp also operates mines in Argentina, Honduras, Mexico and the Dominican Republic.

Other Canadian mining companies active in the region are Meridian Gold, Glencairn Gold and Barrick Gold, which runs the controversial Pascua Lama mine along the border between Chile and Argentina in the Andes mountains, as well as mines in Peru that face stiff opposition from environmentalists and local communities.

Kopas said that even though the Supreme Court verdict is not directly applicable, in legal terms, to companies operating outside of Canada, it will have to be taken into consideration to some extent by all mining companies, especially Canadian ones.

The lawyer pointed out that the Canadian parliament is debating Bill C-300, an Act Respecting Corporate Accountability for the Activities of Mining, Oil or Gas Corporations in Developing Countries, which would regulate the Canadian mining industry outside of the country's borders based on international environmental and human rights standards.

Rafael Maldonado, adviser to the Centro de Acción Legal Ambiental y Social (CALAS - Centre for Legal, Environmental and Social Action), said to IPS that the Supreme Court decision is of vital importance not only in terms of improving environmental impact studies, but to order companies to take into account public input from local communities where mines operate.

But the Montana Exploradora mining company argued that the news of the Canadian Supreme Court ruling had been manipulated and distorted.

"We are concerned by the way opposition groups are manipulating information on this case, where the Canadian Supreme Court pronounced itself on the capacity of a federal authority to determine what kind of environmental evaluation process should be followed," said the firm's spokeswoman, Maritza Ruiz.

Community activists, in the meantime, continue raising their voices against the harmful effects of mining.

"This is not mere rebelliousness. We are not opposed to mining itself, but to its consequences, starting with the social conflicts that have left our families divided," Maudilia Cardona, a local leader in the municipality of San Miguel Ixtahuacán, where the Marlin mine operates, told IPS.