

Hearings at the Inter-American Commission of Human Rights **Extractivism and Human Rights in the Americas – the specific case of mining in Colombia**

November 2013

In a [first hearing](#), the petitioners, who were present and had come from all over Latin America, expressed their concerns with regard to a new topic at the IACHR: the responsibility of States, including the home countries of the companies, as well as of the countries where the events occur. Through 24 concrete cases, involving Canadian companies, they identified tendencies in the region. In Latin America, Canadian mining represents at least 60% of the mining industry. Worldwide, 75% of the mining companies are registered in Canada. Two thirds of their investments abroad are in Latin America.

According to information provided by the applicants, mining projects reveal a strong relationship between human rights (HR) and socio-environmental violations. Threats and killings of leaders, identified as terrorists and anti-mining activists, are very frequent. Political repression and militarization of mine regions indicate that a considerable amount of the violence stems from the public forces of the countries, as well as from surveillance groups of the companies. Mining activities are also related to forced displacement, which according to the claims, could be foreseen, managed and dealt with by State officials on behalf of the mining companies to facilitate the mining project.

Different reasons ease the commission of HR violations: the lack of legitimate and adequate mechanisms for prior consultation, the criminalization of social protest, the existence of ineffective and contradicting legal

frameworks in Latin America, as well as the absence of effective legal resources for the victims.

HR violations are also encouraged by factors in Canada. For instance, the Canadian institutional structure is problematic because the State financially and politically supports the activities of its companies abroad, without the necessary regulations or safeguards for the protection of HR. Additionally, many cases demonstrate undue interference of Canada and its companies in internal legal proceedings of the countries in which they operate. Furthermore, Canada does not dispose of effective legal protection means for the victims.



So far, despite law proposals and the creation of an Office of Corporate Social Responsibility, there has been no sentence in Canada that establishes the responsibility of companies or business owners for their link with HR violations committed abroad.

The applicants questioned the legal framework determining the responsibility of the host State and of the home countries. According to the Inter-American Convention

and Declaration, States have – through the principles of acquiescence or tolerance regarding HR violations – a duty to cooperate with each other, as well as extraterritorial responsibility.

The [second hearing](#) analysed specifically the issue of extractive industry in Colombia. The petitioners started by reminding some important facts:

- 12% of the world's plant wealth is located in Colombia. Indeed, 52% of its national territory are forests and it is the 7th country in the world with the highest availability of water resources.
- more than 90 hydroelectric projects are being studied and another 30 projects are involved in environmental litigation. Approximately 42% of foreign investment in Colombia relates to the development of mining projects, whereas 8% of the best soils for food are in the hands of the mining industry.
- 59% of the Colombian territory is granted, or in the process of being granted, as a concession, and many of the requests and titles of the mining industry overlap with areas of special rules for the protection of conservation regions, of ethnic community regions and of land intended to be allocated to poor farmers.

The applicants denounced the weakness of the State control bodies, which should follow, supervise and monitor possible violations

related to megaprojects (links with paramilitary structures, forced displacement, dispossession and land grabbing, stigmatization and prosecution, criminalization of social protest, lack of free, prior and informed consultation, violation of economic, social, cultural and environmental rights). Furthermore, there is no public policy to assist the victims of these megaprojects.

The following hydroelectric project cases were presented:

- the Quimbo dam Project on the Magdalena River, which may flood over 8.500 hectares of productive land. This is deeply worrying in terms of food security in the region and the eviction of 700 people, without compensation.
- The Hydroituango dam in the Cauca river, which led to numerous displacements and violence perpetrated by the paramilitaries remain impune. 19 people, out of the group that protests against the project, have been prosecuted, mainly for road obstruction.

In order to obtain more information on extractive industries in Colombia, see the report "[Extractive industries, natural resources and human rights in Colombia](#)" by ODHACO and the Colombian Platform for Human Rights, Democracy and Development (*Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo*), published in October 2013.

In the light of these hearings, ODHACO recalls its strong concern regarding the human rights violations committed to facilitate or as a consequence of the business activities, as well as regarding the arbitration system, or the [system of extraordinary privileges and 'super rights'](#), from which benefit the companies that have a big impact on the legislative work of governments.

Therefore, we urge the European Union, Member States, Switzerland and Norway:

- to adopt and implement a binding normative framework for European companies operating in other countries, in accordance with International Human Rights Standards, including the right to prior consultation and to free, prior and informed consent for the indigenous communities and the Afro-descendants.*
- to consult with civil society organisations and the communities when evaluating the impact of companies' activities.*
- to establish effective mechanisms giving access to victims of human rights violations committed by European companies.*
- to control the goods that enter their territories in order to ensure that they do not stem from companies which benefited directly, or indirectly, from human rights violations.*

Within the framework of the Free Trade Agreement with Colombia, we particularly request the European Union to establish a transparent periodic monitoring mechanism, in the human rights clause in order to make it effective.