

Guatemala Briefing Note ~ May 2021

The Americas Policy Group (APG) along with other civil society organizations in the United States and Guatemala are highly concerned with the increasing attacks and challenges to human rights in Guatemala and the weakening of the country's democratic state.

We shared concerns with the Canadian Embassy in Guatemala throughout 2020 and recently with Minister Garneau and Minister Ng, in relation to how Canadian mining interests are capitalizing and benefiting from this context. APG members wrote a [letter of concern to Minister Garneau](#) on February 17 of this year, and a similar [letter exposing violent attacks against Xinka land defenders](#) in opposition to Canadian mining was also sent on March 30. Minister Garneau's response on April 22 states Canada's commitment to "advocate for the protection and promotion of human rights in Guatemala and the world." We believe that given its mining activities in Guatemala, Canada has a direct obligation to the Guatemalan people and that concrete actions must be implemented to fulfil its commitments to human rights in the country.

This briefing note has been prepared on behalf of the Americas Policy Group.

General context:

- **Guatemala ranks among the world's most dangerous places for activists.** The [2019 Global Witness report](#) ranks the country fourth in highest per-capita murder rate in the world, stating that out of all the killings of land and environmental activists across Latin America, half were in the mining and extractive sector.
- **Violence against journalists and attacks against freedom of the press are steadily increasing.** Reports in 2020 from [Human Rights Watch \(HRW\)](#) and the [Committee to Protect Journalists \(CPJ\)](#) highlight the Guatemalan government's lack of hostility towards the media, and the mounting violence and criminalization against journalists, particularly those covering issues in areas dealing with extractive industries, claims to Indigenous rights and gender equity, and drug trafficking.
- **Human rights violations against activists, community leaders, and peaceful demonstrators are also on the rise as are defamation campaigns and threats.** Guatemala's proposed 2021 fiscal budget presented last November included deep cuts to social programs to combat malnutrition, maternal health, and the Office of the Human Rights Ombudsperson in Guatemala. This prompted mass mobilization that resulted in the burning of congress, which has served to further justify acts of aggression and criminalization against the general population.
- **The erosion of an independent justice system has been solidified through the swearing in of new Constitutional Court (CC) magistrates with ties to corrupt structures, some of whom are actively involved in upholding impunity, repressing human rights, and protecting or defending perpetrators of genocide.** Additionally, the Supreme Court of Justice and Attorney General prevented the swearing in of Gloria

Porras, one of the country's few remaining independent judges known for upholding human rights and the rights of Indigenous people.

- **Guatemala's current judicial crisis stems in part from the CC's 2018 decision to maintain the suspension of the Escobal silver mine, owned by Pan American Silver, and subsequent rulings to suspend two additional operational mines pending consultation with Indigenous people.** The decision cited the Guatemalan government's failure to uphold ILO Convention 169 on the Rights of Indigenous and Tribal Peoples to free, prior and informed consent in regard to policies and projects affecting their territories. The top magistrate on the recently sworn in Constitutional Court questioned the validity of the suspension orders and cast doubt on the willingness of the Courts to uphold the sentences.
- **Recent patterns of government repression through congress, the courts, the military, and police, demonstrate the extent of deterioration of Guatemala's democracy and rule of law.** Investigations have revealed concerted strategies by congress to attack public officials of the opposition. Recent rulings by the newly elected CC voted to bring back and approve a contentious law that will work to regulate NGOs operating in the country and is widely regarded as a threat to human rights and the right to free association, allowing the Guatemalan state to interfere in the affairs of NGOs and disband any groups deemed undesirable to the state.

Key Issues:

- Despite the 2018 CC ruling ordering the suspension of all mining activities pending consultation with Xinka Indigenous communities, Pan American Silver has continued interference at the community level through social programs and engagement, which the Xinka people have denounced as acts of bad faith and a form of coercion jeopardizing the "free" nature of the consultation process. The Xinka case is emblematic because of the way in which Indigenous people have been persecuted and repressed to protect the interests of foreign investment.
- The extractivist agendas of the Guatemalan government and Canadian investors place Indigenous peoples, activists, and human rights defenders at an exacerbated risk. Examples of this include the assassination attempts in early January 2021 against peaceful resistance leader Julio Gonzalez Arango who stands in opposition to the Escobal mine, as well as threats and intimidation against community leaders in Nuevo Día who stand in opposition to the Canadian-owned Goldex El Pato mining project.
- Lack of an impartial judicial system in Guatemala along with the high incidence of corruption and impunity mean Indigenous communities have no independent backstop to ensure pre-consultation and consultation processes respect their rights.

- The Canadian Embassy in Guatemala has remained largely silent throughout the recent string of attacks against human rights in Guatemala, and were evasive when urged to ensure accountability from Canadian mining operations in Guatemala.
- The delayed response from the Minister Garneau's office to only one of the letters concerning the situation in Guatemala demonstrates there are little to no concrete actions taking place to uphold Canada's obligations and commitment to "advocate for the protection and promotion of human rights in Guatemala."
- Erosion of the justice system, the weakening of the rule of law, and the increased repression of the Guatemalan people serve to advance extractivist agendas benefiting Canadian mining interests.

Requests:

To Members of Parliament we ask that you:

- Commit yourself to remain informed about the role that Canadian mining interests play in Guatemala and other countries where Canada conducts business
- Support the [Mandatory Human Rights and Environmental Due Diligence \(mHREDD\)](#) legislation proposal from the Canadian Network for Corporate Accountability (CNCA)
- Highlight the issues concerning Guatemala in Parliament to ask what the Canadian government is doing, particularly in regards to Pan American Silver's Escobal mining project as one of many examples of how unregulated Canadian mining interests overseas impact the rights of Indigenous peoples and communities
- Write letters of concern to Pan American Silver and the Canadian Embassy in Guatemala in relation to the ongoing situation in the country

To the Canadian Government we ask that you:

- Take a public stance about the concerning situation in Guatemala making a statement affirming the importance of upholding democratic systems of government, judiciary independence, the need to repeal the NGO law and protect of human rights, and obligation to respect Indigenous people's self-determination regarding projects and policies affecting their lives and territories in line with ILO 169 and UNDRIP

To the Canadian Embassy in Guatemala we ask that you:

- Continue meeting with and working to support civil society organizations in Guatemala in the defense of their territories and human rights and actively support defenders who seek their support in ways laid out in Voices At Risk or other ways that they may request
- Make a public commitment to call on Canadian enterprises working in Guatemala, including Pan American Silver specifically, to abide by international human rights standards, suspend community programs and engagement, and not intervene in the current pre-consultation and upcoming consultation processes related to mining projects