

# Find Your Voice: Workshop on Free, Prior and Informed Consent

## Goals

- To build understanding of the principle of “free, prior and informed consent” (FPIC), and its relevance to Indigenous rights in Canada and globally.
- To experience some of the complexities and contradictions of community decision-making related to resource extraction issues, including the impact of external forces.
- To commit to action on ensuring that FPIC is honoured, particularly through the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

**Note: This workshop requires a minimum of 12 participants.**

## Materials/Preparation

- At least four copies each of the following case studies: Ecuador, Guatemala, Tar Sands.
- Copies of the relevant “wild cards” (see Appendix) printed out ahead of time on cards.
- Copies of the KAIROS Declaration petition (available on the KAIROS website) for all participants.
- Copies of the Declaration articles and FPIC definitions (p. 23). Print and cut out as strips of paper; stick them under selected chairs.

- Flipchart sheets and markers for each small group.
- Copies of the Oil and Conflict map (available from KAIROS) for all participants (optional).

## A Introductions and Ice Breaker (10-20 minutes)

Welcome people and ask them to introduce themselves. Explain that the workshop is about resource extraction—mining and oil exploration— and the impacts of this on Indigenous communities around the world. In particular, we are concerned about how decisions are made to mine or dig oil wells on Indigenous land. Who has a say in this? Who should? In examining these questions, we will also examine the question of free, prior, and informed consent (FPIC), a key element in the UN Declaration on Indigenous Rights.

Ask participants to spread out around the room. Call out each of the instructions below, giving the groups a couple of minutes with each task.

- Form groups of any three people: Name three things that require oil.
- Form groups of any four different people: Name three everyday things that use metal.
- Form groups by region: Name some of the Indigenous groups whose lands your communities are built upon.

For the last round, ask small groups to share their answers with the larger group.

Briefly outline the agenda for the workshop.

## B What on Earth is Free, Prior, and Informed Consent? (20 minutes)

FPIC looks simple on paper but it’s difficult to enact. Ask people to check under their chairs (carefully, in case gum is involved). Some will find a slip of paper. Ask people to read the slips describing “free,” “prior,” “informed” and “consent”. Then ask others to read the related articles from the Declaration. The language is somewhat heavy because of the legal nature of the agreement, so take time to clarify any phrases that aren’t clear. Ask if there are any questions and note these down on the flipchart.

## C Role Plays (60 minutes minimum)

Explain that the groups are going to role-play decision-making about the establishment of a mining or oil exploration venture in an Indigenous community. These are all rooted in real experiences (as outlined in the case studies) but the particular interpretations here will be our own.

Explain that this process is not going to provide answers. Instead, it will look at the difficulties that are part of any fair and transparent decision-making process related to resource extraction. It’s a way of naming the different actors in a given situation. It’s very important that people be able to listen to one another, not interrupt (no matter how worked up they are!), and be respectful of different points of view.

Note that in many cases, negotiations can take years; invite people to think (as they work) of the impact years of struggle and discussion would have on a community, government or corporation.

Divide the group into small groups of six or seven people.

**Give each group a case study and the following instructions:**

1. Read the case study together. (10 minutes)
2. Brainstorm and write down the identity of groups or individuals who are involved or affected by the situation described in the case study. (Examples might be “member of affected community,” “company,” “government.”) Ask participants to think about the people not named—for example, if mining is the issue, who benefits from the precious metals? Are there shareholders involved? (10 minutes)
3. Each case study group should now pick two or three of the “identities” and divide into two or three smaller teams. (Don’t worry if some of the identity groups are left out.) Each team should identify a spokesperson.
4. Each group should enter into their role as much as they can. Encourage them to have fun with it, putting themselves into others’ shoes as much as they can. Together come up with a position on the question of resource extraction in their case study, and reasons to support it. (15 minutes)

**If teams are having trouble, offer these questions:**

- What are the real and deep values of the person or group you are representing? What is of highest interest to them?

- What is the person’s or group’s objective or goal?
5. The spokesperson from each group presents, with help from their group, their position and reasoning in three minutes or less. (20 minutes)

**Take a 20 Minute Break Now**

6. Hand out one Wild Card per group (see Appendix) and ask all teams to discuss how this additional information might change their points of view. Note that the Wild Cards may simply build on the roles people have already taken on; in other cases they add new (and fictitious) elements to the situation that are based on real-life examples.

After about ten minutes, each team should talk through their responses. (20 minutes)

This is the end of the role-play itself.

**D Debrief as the whole group (20-30 minutes minimum)**

It is crucial to the educational benefit of the role-play to debrief. Bring the entire workshop back together.

- 1. Feelings and insights.** Discuss:
  - How did you feel about the position you were assigned? Were there difficulties?

When you feel the group is ready to move, shift to analysis:

- 2. Who has the power?** Go back to the written list of “roles” in the case study. Now rate each “role” on a scale of one to 10 according to how much power they have. Think about different types of power (eg. power over, power with, etc). Continue with a discussion:

- What forces are beyond the control of some of the actors?
- Who could join together for greater power?
- What power do international or domestic laws and agreements seem to hold?

**E Moving to Action (20 minutes minimum)**

Introduce the UN Declaration on the Rights of Indigenous People. Explain that the Declaration contains wording designed to deal with the ongoing absence of Free, Prior and Informed Consent in many resource extraction operations on Indigenous lands.

Canada is not exempt from this problem. While Canada endorsed the Declaration conditionally in November 2010, the hard work of implementation lies ahead. Many of Canada’s laws are out of step with the Declaration’s spirit and letter. Implementing the Declaration is one step towards true respect for Indigenous peoples’ power to choose.

Ask the group to think about commitments to action they are willing to make, including meeting with their MP and awareness raising.

What opportunities are coming up in the next year can be acted upon?

Make commitments and list next steps for making these events happen.

Bring the time together to a close with a reading and prayer or silence, whichever is appropriate.

## Appendix: Wild Cards

### THE ALBERTA TAR SANDS

#### **Leaders of the Local Community**

One or two family members of every leader have been offered a job with the corporation. Jobs are hard to come by in this area. Several young adults who were planning to leave the community have said they will stay if these jobs come through. The company says lots of training will be made available and the jobs can be transferred to other operations once this project is done. The development is happening all over the territory anyway and no one has been able to stop it; in the past year your grandfather's trap line was ploughed under and its income lost.

### THE ALBERTA TAR SANDS

#### **Oil and Gas corporation executive**

You have lived in Northern Alberta all your life; you're an avid fisher and hunter. You are also a key executive in this corporation and you have just discovered that one of the areas to be developed by your company was defended and preserved by your father and Aboriginal grandfather. You have a chance to shape how the development will take place, and who might gain jobs from it.

### ECUADOR

#### **Community resident**

You are the mother of three young children. You and your ancestors have lived here for as long as anyone can remember, and you love the land like you love your children. One of the children fell seriously ill last month; it was frightening enough, but made worse by the long walk to the nearest road that preceded the difficult job of finding someone with a truck that could get you to a clinic. You know that a road would make life easier but the only group offering to build one is the company that wants to set up a test site. As your community continues its decision-making, you feel you need to raise ideas about the road, and maybe even the need for a clinic closer to the community, but you don't want to be seen as siding with the company. You wonder if others feel the same way.

### ECUADOR

#### **Director of the Company**

You're getting just a bit tired of these activists who go in, tell communities what to think, and then claim Indigenous people are against all oil extraction. The ones working on your latest drill site certainly aren't against it. And the company has contributed a lot to these communities: emergency relief, schools, and more. And you'd be willing to consider a road extension or clinic. But first you need firm assurances that once the community agrees that you're welcome, they won't change their minds. Nothing scares off shareholders faster than instability and any threat of violence. Trouble is, you're stuck in the city instead of in the field and really don't have much chance to learn how people in the area do things.

### GUATEMALA

#### **Shareholders**

You are part of a religious community that holds some shares in a mine and you're involved in a wider interfaith group that's pushing for a human rights impact assessment. You're considering what to do next. Not everyone is willing to call on the mine to close, and some of the group's members have stakes in the mine via their pension fund. They want to give engagement a chance. Others feel the communities in the affected area have spoken, that they have not given their consent for the mine, and it's time to echo what they say.

### GUATEMALA

#### **Canadian Embassy**

The mining company's representatives have been making regular visits to the Embassy urging you to protect their permit. Past Canadian ambassadors to Guatemala have been very supportive of this project but it has gotten them into some hot water with the public. Now some Canadian churches have sent a delegation urging you to stop this particular mine. They have managed to get considerable media coverage. Maybe it's time to step back from this project.

## Labels for chair-taping exercise

**Free:** Indigenous peoples must freely give their consent to development projects affecting their lands and resources without coercion, manipulation or interference by any government or corporation.

Consent must not be obtained by force or deception.

**Consent:** The community affected by a proposed project must have the right to say “no” at any time prior to, or during the negotiation process. It is the responsibility of each affected community to decide who will express or withhold consent on their behalf.

**Prior:** The consent of the community affected must be requested and freely given prior to the initiation of any project on their lands.

**Informed:** Consent must be based on informed consultation and participation by Indigenous peoples with full disclosure of the development activity. All information must be provided in a form that is both understandable and accessible to the community. If misleading or false information is provided, any consent already given could be made invalid and therefore withdrawn.

## Relevant Declaration Articles

### From the UN Declaration on the Rights of Indigenous Peoples’ preamble

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs...

### From the UN Declaration on the Rights of Indigenous Peoples:

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

### From the UN Declaration on the Rights of Indigenous Peoples: Article 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

### From the UN Declaration on the Rights of Indigenous Peoples: Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

# What is True Wealth? Indigenous Communities and Oil in Ecuador

By Rachel Warden, as told to Julie Graham, 2010



Children of Pitayacu. Photo: Rachel Warden/KAIROS.

After walking for over two hours through the heavy mud and dense vegetation of the Amazon jungle I arrived in the Indigenous Kichwa village of Pitayacu in Ecuador. By our western standards, it might look like a poor community, lacking modern infrastructure and many of the consumer goods we take for granted. But a closer look revealed a healthy and vibrant group of people living where the river is clean, the land retains its ecological integrity, the houses are well made and built from local materials, and the children are happy and energetic. Poor is not a word I would use to describe Pitayacu. In fact, the community makes one ask, "what is true wealth?"

Resource extraction companies often claim their projects will raise

communities "out of poverty." But how do they consider the impact of their project on those things the community holds uniquely valuable, such as the water, the land, and the right to determine how they are used? Why should a road, for example, cost the community its autonomy and come at the expense of its right to determine its livelihood?

In 2008 the government of Ecuador gave Ivanhoe Energy, a Canadian-based oil company, drilling rights to the Kichwa Indigenous peoples' traditional land, which lies within the UNESCO Sumaco Biosphere Reserve in western Ecuador. The region is called Rukullakta and is home to more than a dozen Kichwa communities. Ivanhoe's concession, Block 20, is approximately 1103 square kilometers in size and contains the massive 647- square-kilometre Pungarayacu heavy oil field.

The Kichwa communities of the region, including Pitayacu, are opposed to oil exploration and development on their land. They have organized popular assemblies and issued several declarations to make their position clear and to demand respect and recognition of their rights. In spite of this opposition, Ivanhoe Energy established a camp outside of Rukullakta. That's when the communities contacted Oilwatch, a KAIROS partner, for support.

In April 2010, Oilwatch invited me to visit the Pungarayacu oil fields. I travelled there with Ivonne Yanez, coordinator of Oilwatch South America. A few days before my arrival, Ivanhoe Energy had offered to build a road to the community in return for permission to conduct some test drilling. While some members of the community wanted a road, they also knew that accepting the offer would both facilitate and legitimize Ivanhoe's presence in the area.

At a community meeting where I was present, it was revealed an elder had given Ivanhoe permission to build the road. This violated the community's collective decision-making process, which does not allow any individual to grant permission for projects that will impact the entire community. At the meeting the elder was berated for knowingly ignoring the community's decision-making process.

Such tactics have been used by some resource extraction companies to make it appear as if they have secured a community's consent to begin operations. At the time of writing Pitayacu and the 16 other communities remain opposed to oil exploration and development on their land.

This story is one small example of the complexities of "free, prior and informed consent," or FPIC. All peoples



Rachel, Ivonne, and *Accion Ecologica* staff before heading to Pitayacu. Photo: KAIROS.

have the right to determine their own development paths, according to their particular needs and aspirations. Respecting this right involves governments and companies engaging in dialogue with Indigenous peoples in good faith to seek their consent for major projects that may affect their lands and societies. Sometimes a project may need to be modified as a result. In other cases, an Indigenous community may decide to say “no” to the project in question. This collective right is now recognized and enshrined in the UN Declaration on the Rights of Indigenous Peoples, as well as the Ecuadorian Constitution.

In September 2008 Ecuador’s constitution was completely rewritten and ratified by 68 percent of the population. It includes Indigenous rights and requirements for extensive citizen consultation, and is the world’s first national constitution to include legally binding rights for ecosystems. Yet the Ecuadorian government’s decision to sign a major oil development contract with Ivanhoe without consulting Indigenous communities who will be affected by the project seems to contradict its very own constitution. Interestingly, Ivanhoe’s contract with the Ecuadorian state was signed on October 8, 2008, only twelve days before the new Constitution would go into effect.

Canadians need to do more to ensure our companies respect human rights. A few years ago, the Parliamentary foreign affairs committee found that “Canada does not yet have laws to ensure that the activities of Canadian mining companies in developing countries conform to human rights standards, including the rights of workers and of Indigenous peoples.” The Canadian government chooses to adopt a purely voluntary approach when it comes to companies respecting human rights abroad. Even Canada’s embassies sometimes seem to act as if their primary duty were to promote the commercial interests of Canadian mining, oil and gas companies, with human rights as more of an afterthought.

So often we are told that resource extraction is critical to community and national health and wealth. Certainly Canadians have heard this about the tar sands again and again. It is repeated so often that sometimes we don’t stop to question it.

Pitayacu radiates the wealth and health that come from a land and lifestyle that is sustainable for both the community members and the other living creatures they depend on. I don’t want to romanticize poverty or isolation. I can understand why a community would want a road for ease of access, for supplies, for safety. After my two-hour walk through the jungle I was completely exhausted. I can’t imagine making that trip with a sick child. But why should a road come at the cost of the community’s livelihood or autonomy?

Pitayacu and other Ecuadorian Indigenous communities will face many more such difficult decisions. Whether large or small they are all part of the same struggle to create and maintain the political space to exercise their rights to make those decisions, free of outside pressure and manipulation.

As their foundation they have something that Indigenous people pushed to have enshrined in Ecuador’s new constitution: the idea that the people and the Earth alike have a right to “buen vivir.” The English translation of “well-being” or “the good life” doesn’t capture this expression well. It means focusing on the things that lead to a whole and healthy life.

In the midst of a world economy that runs on fossil fuels and generates trillions of dollars from their extraction, the Kichwa peoples of Rukullakta have declared themselves to be part of a territory free of oil. Ecuador is still emerging from a racist and colonized past, and it struggles with deep poverty despite decades of fossil fuel extraction in its Amazon region. These Indigenous communities have a long-term vision and a different definition of “wealth” that together make it possible for them to say “no” to the short-term jobs and income promised by oil.

The choice to extract oil from the Rukullakta region is complicated. There are many questions, to which there are different answers. But surely all who will be affected by the project have a right to ask those questions, and to participate in making the decision, as the UN Declaration on the Rights of Indigenous Peoples promises.

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# "No, We Don't Want This..."

## Tar Sands Development and the Right to Consent

By Sara Stratton, 2010

To get to Fort Chipewyan in northern Alberta you must fly over a great tract of boreal forest, through which the Athabasca River flows, gradually melting away to a vast open delta and the majesty of Lake Athabasca itself. In the middle of this, about 250 km south of Fort Chip, sits a series of open pit mines and *in situ* well sites, and bitumen upgraders. This is the footprint of the Alberta tar sands industry.

Tar sands extraction is a destructive process. In surface mining, responsible for about 20% of production, the boreal forest is stripped away and land mined for the heavy black sand that contains bitumen, the substance used to make synthetic crude oil. Water from the Athabasca River is used to separate the bitumen from the sand. After use, and full of heavy metals, naphthenic acid, and polyaromatic hydrocarbons, it is stored in massive tailings ponds to keep it out of the river. *In situ* wells, which will extract the majority of recoverable bitumen, use high-pressure steam to extract the bitumen from deep underground. While put forward as a more environmentally responsible extraction method, the impact of this process on underground water sources is not known. Nor is the surface impact on wildlife fully understood.

All of this causes concern to the Indigenous communities –Mikisew Cree, Athabasca Chipewyan, and Métis– of Fort Chipewyan, even though the

town has benefited and many people have jobs as a result of the tar sands projects. They are concerned about the pace of development, and the impact on the Athabasca ecosystem. The community is asking for independent scientific studies to consider the cumulative ecological impacts on the land, water, animals and fish. Many in the community still depend on fish and game for sustenance, and are worried about what effect their consumption has on health.

While some stories have been discounted, others have resonance. Elders told a group of church leaders in 2009 that they have seen lesions on fish caught in the Athabasca, and that the meat of wild animals tastes different. A 2006 model commissioned by tar sands giant Suncor predicted that arsenic levels in local food sources such as moose would be 453 times higher than the acceptable risk. In 2007, a study by Alberta Health found the levels to be 17-30% higher than normal, which while not necessarily higher than in other northern communities is still far above the medically acceptable risk. Researcher Kevin Timoney found that water in the area contained unsafe "levels of arsenic, mercury and polycyclic aromatic hydrocarbons." Around the same time, Suncor admitted that its Tar Island dike had leaked millions of litres of wastewater daily into the groundwater.

So, when faced with what to them and their doctor seemed an unusual cluster of cancers, the community demanded a health study. One was completed, albeit without the full involvement of the community, in 2009. The results showed more cancers than would be statistically expected, but not necessarily a medical crisis. The report recommended deeper and continued study to see if there were links to the tar sands. To date, that follow-up hasn't taken place, nor has a broader study.

One of the community's biggest concerns is that what happens in the area, whether it is the approval of a new project or the undertaking of a medical study, does not seem to take place with genuine consultation and participation of the community. This became clear to the Athabasca Chipewyan First Nation (ACFN) in late 2008, when it sued the Government of Alberta over its failure to consult with First Nations before selling leases on traditional territories around the Poplar Point reserve south of Fort Chipewyan.

In September 2009, Alberta and Shell Oil (one of the purchasing companies) filed a motion to stop the case, arguing that the ACFN had missed an established six-month window to appeal the sale. The ACFN's point was that they did not know about the sale. In October, the judge agreed with the government and the corporation and dismissed the suit before it came to court, ruling the government had fulfilled its duty to consult by publishing information on a website. According to the Slave River Journal, "Both Alberta and Shell admitted they did not inform the First Nation the leases had been sold," but the judge in the suit effectively put the onus on First Nations to find out about government and industry plans for their territory, writing in his decision that "The ACFN has failed to show that it had

exercised due diligence in becoming aware of the existence of the leases.”

A far different picture could be unfolding in the Athabasca region if Canada had acknowledged its responsibilities under the United Nations Declaration on the Rights of Indigenous Peoples.

The Declaration states that “Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.” (Article 26) It also recognizes their right “to determine and develop priorities and strategies for the development or use of their lands or territories and other resources,” and places the onus on governments to “consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.” (Article 32)

Implementation of the Declaration would not necessarily mean that tar sands projects would not go ahead. It would mean, however, that they would be subject to a more rigorous consultation and decision-making process with the full involvement of First Nations. And that would affect more than the people of Fort Chip.

There is a huge market for fossil fuels and Canada’s tar sands are promoted as a source that is safe from conflict and a far less risky venture environmentally than deep ocean drilling. At a time when conflict in the Middle East and the



A working tar sands pit and another area of the Boreal forest being prepared for mining. Photo: Sara Stratton.

recent explosion in the Gulf of Mexico make those sources of oil unstable and unpopular, there is much interest and potential profit in piping synthetic crude out of Northern Alberta into existing markets in the United States and emerging ones in China.

But to get to China the crude must first travel more than 1000 km through the wilderness –and the traditional territories of more than 60 First Nations– to the Northern BC port of Kitimat where huge tankers will ferry it across the Pacific. To do that the oil companies need a pipeline: Enbridge’s proposed Northern Gateway.

The chiefs of the Gitga’at, centred in Hartley Bay, BC, have been clear in their opposition to the pipeline project. They fear it will destroy their traditional food supplies and cultural practices with little benefit in exchange. Ha’eis Clare Hill, chief-in-waiting, recently spoke to New Internationalist magazine about the consultation that Enbridge (builders of the pipeline) held with the community:

*It was hilarious, actually. Enbridge came in with the argument that it would create jobs in Hartley Bay. We would be on-call and trained in case there’s a disaster. So we would be the garbage clean-up people! Of course, the people who cleaned up the Exxon Valdez spill*

*are now sick and dying as a result... We had our chiefs there, we had elders, and everyone who got up said “no, we don’t want this.”*

Tar sands production and export have now and will continue to have significant impacts on Indigenous communities in Alberta and British Columbia. The questions posed by oil development are complex, and it’s imperative that those communities most affected be at the table when decisions are made.

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# A Golden Opportunity? Mining and the Maya

By Julie Graham, 2010

*Nature can exist without us,  
but without nature and the  
land, we would all perish* —  
Naty Atz Sunc

A majority-Indigenous and mostly agricultural country, Guatemala is still recovering from a vicious conflict that pitted poor Mayan communities and human rights groups against US-backed government forces. It spanned three decades and killed hundreds of thousands of people, most of them Indigenous Mayans.

Today profound inequality accompanies post-war traumas and a fragile peace, as the Indigenous majority remains largely excluded from Guatemala's economy and society. As in many other nations, mining and other forms of foreign direct investment are seen by the Guatemalan government as ways to develop poor areas quickly, and to bring their remote or rural areas under central government control. Many of Guatemala's Indigenous peoples disagree with this approach and are using a variety of tools to resist resource extraction projects. The Goldcorp experience is one example.

Goldcorp, Canada's second largest gold mining company, began developing the Marlin mining project at San Miguel Ixtahuacán in northwestern Guatemala in 2003.

The mine has been controversial from the start. Local Indigenous communities contend they were not properly consulted when mineral rights were granted to Goldcorp's local subsidiary. In November 2004, KAIROS and 126 other organizations sent an open letter to the President of Guatemala urging him to suspend work on the Marlin mine as long as his government had not secured the free, prior and informed consent (FPIC) of Indigenous peoples to the project. In December 2004, those opposed to the mine staged a peaceful protest and set up a road block to stop shipments of mining equipment to the mine site. Forty days into the protest, things turned bloody and one campesino (peasant farmer) was shot and killed when close to 1,500 Guatemalan National Civilian Police and 300 soldiers stormed the blockade to allow the equipment through.

More recently, members of a Mennonite Central Committee delegation to Guatemala in 2009 learned that community leaders fear the cyanide-leaching process used to separate the gold from the rock is contaminating the air and water. They confirmed that the presence of the mine has caused conflicts and created divisions in the communities. In July 2010, an Indigenous opponent of the mine was blinded in an attack by an unknown assailant.

Opponents of the Marlin mine have brought their case before three international bodies, and have won every time. In March 2010, the UN Committee on the Elimination of Racial Discrimination (CERD) denounced mining licenses on Mayan territory that were authorized without previous consultation, and called on the State of Guatemala to establish appropriate mechanisms to seek and obtain consent. A second complaint filed under the International Labour Organization's convention on Indigenous rights (No. 169) led to a resolution calling for the closure of the mine and an investigation into the alleged violations of rights. In May 2010, the Inter-American Commission on Human Rights (IACHR) ordered the suspension of mining at Marlin, based in part on a new medical study that found elevated levels of mercury, copper, zinc, arsenic and lead in the blood and urine of people living in the vicinity of the mine. The IACHR also granted "precautionary and protective measures" for the members of 18 Mayan communities affected by the mine.

Some of Goldcorp's shareholders have expressed concern over the community conflicts surrounding the Marlin mine. In response to pressure from socially responsible investors, Goldcorp agreed to participate in a Human Rights Impact Assessment (HRIA) of the Marlin Mine. Released in May 2010, the report asserts that in establishing the mine Goldcorp failed to respect the rights of Indigenous people to free, prior and informed consent. The HRIA also notes that Goldcorp has failed to adequately address community grievances, has dismissed mine employees who have attempted to form a union, and has failed to plan for the mine's closure in such a way that the people and the land will not be harmed by long-term environmental impacts. In response to the HRIA study, the company made several commitments:

We will work with the Government [of Guatemala], as appropriate, to assure that indigenous peoples are consulted with respect to our operations. Goldcorp and [its subsidiary] Montana support the adoption and implementation of legislation or administrative rules that establish clear, transparent, and inclusive procedures to ensure compliance with ILO 169 in Guatemala.... Goldcorp is in the process of developing a corporate human rights policy that will address, among other issues, the rights of indigenous peoples. Goldcorp commits to provide training with respect to indigenous peoples throughout the company and its subsidiaries as part of management and key staff core training.

In June 2010, Naty Atz Sunc, a Mayan Mam leader who works with KAIROS partner CEIBA visited Canada. She spoke about CEIBA's position against mining and why it is calling for minerals to be kept in the ground: "We had the debate within the organization of whether we could say no to mining completely and definitively. But if we see mining in an integrated way and look at the impacts on the environment and Mother Earth as well as the community, then No means No means No. Our struggle is for life. What good are economic gains, short-term jobs and pensions, if we don't have life?"

That same month, the Guatemalan government said it would suspend operations at Goldcorp's Marlin mine in response to the order issued by the Inter-American Commission for Human Rights. Unfortunately Goldcorp shows no signs of hearing the mounting calls to close the mine. On the same day the government announced it would suspend mining at the site, Goldcorp issued a statement saying, "The mine continues to operate, and while this process is underway we expect normal operations to continue."



Naty at a CEIBA-sponsored mining workshop. Photo: Rachel Warden/KAIROS.

However, the gains made so far are an important example of what a combination of local non-violent resistance, shareholder action and enforcement of international human rights instruments can achieve. The UN Declaration on the Rights of Indigenous Peoples, which Guatemala has endorsed, will further strengthen the voices of Indigenous communities and pry open the political space needed for them to defend and promote their rights.

During Naty's visit to Canada, she tried to help Canadians understand the Mayan Mam worldview in order to help us grasp why hundreds of Indigenous communities, many of which are impoverished, are saying no to mining. She said:

*Our definition of territory is not geographic; rather, it is a broad and inclusive concept referring to the space in which we interact with nature. It includes all elements – air, soil, subsoil, water and all animals. It also includes political and social space. Therefore when we talk about defending territory for future generations we talk about defending all of this.*

### References:

CEIBA <http://www.ceibaguatemala.org/> (Spanish only.) The ceiba is Guatemala's national tree, considered the tree of life in some Mayan religions. CEIBA was formed in 1993; it accompanies communities and social movements, contributing to the birth of alternative social, economic, environmental and health models. Its vision is for a just, inclusive, equitable Guatemalan society that respects human rights.

Diocesan Committee of San Marcos: <http://resistance-mining.org/english/?q=node/139>

Goldcorp/ Marlin Mine: <http://www.goldcorp.com/operations/marlin/>

Human Rights Assessment of Goldcorp's Marlin Mine: <http://www.hria-guatemala.com/en/MarlinHumanRights.htm>

KAIROS: [http://www.kairoscanada.org/en/get-involved/urgent-actions/urgent-action/archive/2005/01/article/guatemala-urgent-action/?tx\\_ttnews%5BbackPid%5D=257&cHash=95e27c3b90](http://www.kairoscanada.org/en/get-involved/urgent-actions/urgent-action/archive/2005/01/article/guatemala-urgent-action/?tx_ttnews%5BbackPid%5D=257&cHash=95e27c3b90)

MCC Mining Justice campaign: <http://ottawa.mcc.org/miningjustice>

Mining Watch's Guatemala page: <http://www.miningwatch.ca/en/home/country/international/latin-america-and-caribbean/guatemala>

Precautionary Measures Granted by the Inter-American Commission on Human Rights during 2010: <http://www.cidh.oas.org/medidas/2010.eng.htm>