

**Open Pit Gold Mining**  
**Human Rights Violations and**  
**Environmental Destruction**

**- The Case of the Marlin Gold Mine -**

**San Marcos, Guatemala**

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## **Executive Summary**

FIAN and Misereor were approached by church and environmental Guatemalan organisations in October 2004 to look into alarming human rights violations with regard to the new open pit gold mine Marlin in the Department of San Marcos. FIAN International and Misereor conducted a research visit to the area in April 2005 and held talks with members of the affected communities, regional and national solidarity NGOs, Human Rights Ombudsman, government officials and mining company representatives.

The conflict around the Marlin Mine in Guatemala has led to a general climate of hostility, threats and violence, and to a strong division of civil society. Even more so, when about 1.300 police and soldiers forced the opening of the Panamerican Highway in January 2005 after a 40 days' peaceful blockade of mining machinery. This resulted in the death of peasant Raul Castro Bocel and many people were injured. Later on an assassination plot was discovered against Bishop Ramazzini of San Marcos, a stout opponent of mining. Several leaders of indigenous, environmental, peasants and human rights organizations received death threats because of their public opposition to the mining project which convey a general picture of the difficult and dangerous work of human rights activists in Guatemala.

International Human Rights Groups have called attention to the problem: FIAN, Misereor, CIFCA, CIDSE, the Canadian Coalition to end Global Poverty, just to name a few, have written to President Berger, to the World Bank/ International Finance Corporation (IFC) and its Ombudsman, to Foreign Affairs Deputy Minister, to the Interamerican Commission for Human Rights, to the International Labour Organization (ILO) and other stakeholders to demand the respect of human rights. Environmental agencies, above Friends of the Earth and Mining Watch Canada, informed about the problems of open pit gold mining using highly poisonous cyanide and boasting a high water consumption. Cyanide has been the primary reagent used by the mining industry for production of gold, and therefore accidental releases of large amounts of cyanide solutions, as it happened in Romania in January 2000, are very much feared wherever mining companies use this technology.

The research visit findings lead FIAN and Misereor, but also the Guatemalan Human Rights Ombudsman (Procuraduría de Derechos Humanos, PDH) to the conclusion that in the case of the Marlin Project, the human rights to water and food, enshrined in the International Covenant on Economic, Social and Cultural Rights, are severely threatened. Furthermore, the Indigenous Peoples Rights on being properly informed and consulted, as recognized by ILO Convention 169, have been ignored and violated. Finally, repressive measures against communities' protest have led to violations of political and civil rights in the context of the Marlin mining project.

Therefore, FIAN International and Misereor ask the Guatemalan Government to review its mining policy under the criteria of international human rights treaties signed and ratified by Guatemala, and to cancel the license given to Glamis Gold for the Marlin Project. FIAN and Misereor also reiterate that the 45 million dollar credit of IFC/World Bank is not in line with human rights requirements and has therefore to be cancelled. It was verified that human rights violations relate to non fulfilment of ILO Convention Art. 169 (Rights of Indigenous Peoples) and the International Covenant on Economic, Social and Cultural Rights. The new World Bank policy for Guatemala which stipulates that “IFC will continue to provide backing for extractive industries like the oil and mining sector” opens the door for further human rights violations and social and ecological conflicts.



## 1. Introduction

FIAN, the international human rights organisation dedicated to the right to food, has been engaged in Central America in cases in which the right to food of smallholders, landless peasants and rural workers had been violated. Most of the cases dealt with land theft, labour conflicts on coffee plantations, as well as violent expulsion from land that had been idle and been occupied and cultivated for many years by landless peasants. Also the demand for land reform and the revision of the agricultural politics in Guatemala and Honduras have been a major topic for FIAN during the past years in order achieve that the corresponding governments do respect, protect and fulfil the right to food of the aforementioned segments of the population. In this context special attention was given to the discrimination against rural women and indigenous people affected by the violation of not only their right to food, but their economic, social and cultural human rights in general.

Misereor, the German Catholic Bishops' Organisation for Development Cooperation, has a long-standing tradition in cooperation with Guatemalan civil society organisations like churches, human rights groups, peasants, indigenous movements and others. Focus of cooperation is the support for defending human rights, sustainable rural development and improvement of the health situation of the marginalized poor and the rural population. This cooperation aims at overcoming the historical discrimination of the (mainly) indigenous peasantry and tries to achieve equity, integration and human rights respect in a society still marked by post-civil war conflicts and human rights violations. Both Misereor and FIAN have consultative status at the UN ECOSOC.

In October 2004 FIAN International and Misereor were approached by the Diocese of San Marcos, Guatemala, in the case of the Marlin open pit gold mine. Researchers paid a first visit to the affected community of Sipacapa and to the mine which is under construction in the southwestern region of Guatemala. At that time local and regional NGOs opposing the mine were increasingly looking for international support and solidarity in their struggle against the mining project which threatens the right to water of the local indigenous Mam and Sipakapense population. They also stated that information and consultation of the indigenous people had not taken place, neither by the company Montana, nor by the Government, nor by the International Finance Corporation which granted a US-\$ 45 million loan to support the Montana project, thus violating Art. 169 of ILO Convention ratified by the State of Guatemala.

From April 1<sup>st</sup> to April 14<sup>th</sup> a research visit of FIAN and Misereor was carried out to the capital of the Department of San Marcos, and the communities of San Miguel Ixtahuacán and Sipacapa. The researchers also visited the community of Chiningüitz, where a violation to the right to water became obvious. Talks were held with several supporting NGOs. Meetings with representatives of various communities of the affected municipalities were held in San Miguel Ixtahuacán and Sipacapa. A meeting with the mining

company's CEO Tim Miller was also planned in San Marcos, but only took place later on in Guatemala City. Instead the researchers spoke with the director of the Foundation Sierra Madre financed by the mining company Montana. The area of the Marlin Mine was visited and the construction process was observed from the public road passing through the area of the mine. Further meetings with churches', indigenous and peasants organisations in different departments widened the scope of understanding of the researchers for the overall mining problematic in other departments of Guatemala. The visit to local leaders in Sololá provided a direct understanding of what happened there: When on December 3, 2004 near Sololá a convoy transporting heavy mining machinery destined for the Marlin mine intended to cut away part of a metal pedestrian bridge crossing the Panamerican highway, the local population organized to protect the bridge and prevent the passing of the mine equipment. This peaceful blockade was forced open on January 11, 2005 by 1.300 National Police and Guatemalan army soldiers to escort the equipment to San Marcos. In the course of this violent confrontation the indigenous peasant Raul Castro Bocel was killed and many protesters were injured. In this context the researchers were also informed about the harassment and threats to people and activists who express themselves against the construction of the Marlin mine in particular and against mining in general.

Subsequent meetings held in Guatemala City with national NGOs, the Human Rights Office of the catholic church, official institutions like embassies, the Vice Minister for Energy and Mining and the advisor to the Human Rights Ombudsman, an indigenous congressman and others, deepened the understanding of many aspects of present and future mining in the country, as well as of reform initiatives to the present mining law. In this context the talks held with Montana's CEO Miller and representatives of IFC/ World Bank were very useful to achieve a substantiated impression of the situation.

During the research visit and in talks held with the affected local communities, with NGOs as well as government institutions, embassies and the project company, it became quite clear that the Marlin Mine project represents a fundamental reorientation in Guatemala's development policy (even though the controversial nickel producing plant in El Estor, Izabal, which had been closed, already existed) opening the country for foreign investments in mining projects on a wide scale. The impact of the social, environmental and political implications of this open pit gold mine which is working with the newest technology of a cyanide lixiviation process<sup>1</sup>, does have a far reaching importance not only for the directly affected people, but also

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<sup>1</sup> Cyanide is the salt of hydrocyanic acid, a toxic substance the tiniest dose of which is lethal. In industrial gold mining the auriferous ore is cut up and piled up in heaps which are sprayed for days with a cyanide solution. The cyanide solution binds the gold contained in the rock and is collected at the foot of the heap. The gold is then filtered out by further processes. Since modern gold mines are also chemical plants, they ought to be subject to the environmental regulations concerning chemical industry. But so far they have not been applied anywhere. A side effect is that heavy metals are freed from the cut-up rock that get into the ground water or into the soil. Smaller leaks are the order of the day, while bigger ones can poison all river life in the shortest time. The most permanent consequences, however, arise from the so-called acid drainage, the continuous leaking of minerals and heavy metals which may last for centuries and which could be stopped difficultly only by a complete sealing of the rock surface devastated by the mining.

<sup>1</sup> While nations and multinational corporations profit from mining operations around the world, local communities face the resulting negative impacts. Mining communities have begun to exercise their right to prior informed consent to mining operations, despite scepticism in the

for the population as a whole - especially for the poor and indigenous inhabitants of Guatemala who are living in those regions pinpointed for mining activities.

The concept of “prior informed consent”<sup>2</sup>, which has been recommended in the World Bank’s Extractive Industries Review (EIR) refers to the human right to political participation of the affected population, is an important standard regarding mining, both on a policy and a project level. Prior informed consent continues to be a major issue of concern of the indigenous populations of San Marcos who have repeatedly made reference to their rights recognised under ILO Convention 169, which represents a strong international reference for the right to prior informed consent.

Access to land, water and a healthy environment are major problems when it comes to gold mining, no matter in which continent or country. Under no circumstances must the people be deprived of their basic resources. There is sufficient ground to oppose open-pit gold mining altogether because of the huge land use involved and the risks to the environment. Development policies in general and, of course, in this case mining policies must respect the realisation of human rights. Therefore the sustainable use of natural resources must have priority over the generation of foreign exchange and the economic interests of a small national elite and foreign investors. Guatemalan society is not the only one standing at the crossroads having to decide which road to take into the future.



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international community and business world. However, in December 2003, the World Bank’s Extractive Industries Review endorsed prior informed consent for its projects and private projects. *Prior Informed Consent and Mining: Promoting the Sustainable Development of Local Communities* supports the Bank’s recommendation. The report defines the concept of prior informed consent as the right of a community to be informed about mining operations on a full and timely basis and to approve an operation prior to commencement. This includes participation in setting the terms and conditions addressing the economic, social, and environmental impacts of all phases of mining and post-mining operations.

## **2. Violations of the right to prior informed consent**

### **2.1 Prior informed consent as a right and a human rights principle**

In the study “Prior informed consent and mining” the authors from the Environmental Law Institute (ELI) define prior informed consent as “the right of a local community to be informed about mining operations on a full and timely basis and to approve a mining operation prior to the commencement of operation. This includes participation in setting the terms and conditions addressing the economic, social and environmental impacts of all phases of mining and post-mining operations”. Whether communities can exercise this right depends on whether they have actually been granted this right by law. The study by the ELI presents an excellent overview of the different bases of legal authority for prior informed consent. There are several major legal sources:

1. International Covenant on Economic, Social and Cultural Rights (ICESCR) (people must not be deprived of their basic living resources);
2. International Labour Organisation ILO Convention No. 169 on Indigenous and Tribal People;
3. community rights protected in the national Constitution (Art. 66, 97, 140, 141 and 253 regarding Municipal Autonomy),
4. statutory requirements for community consultation as part of Environmental Impact Assessments;
5. statutory requirements for community consultation in connection with indigenous or community land rights.

Moreover, various Guatemalan laws guarantee the right to local consultations, like the Decentralization Law (Ley de Descentralización, Art.18), the Law on urban and rural Development Councils (Ley de Consejos de Desarrollo Urbano y Rural, Art. 2) and the municipal Codex (Código Municipal, Art. 35 y 65).

The recognition of the right of communities to prior informed consent includes different aspects: the right to be informed, to dictate the terms and conditions of mining development, or the right to veto mining development on community lands. The organisations representing the communities affected by the Marlin mine have mainly referred to ILO Convention 169. This Convention refers to the principle of free and informed consent in the context of relocation of indigenous peoples from their land in its article 6. In articles 6, 7 and 15, the Convention aims at ensuring that every effort is made by States to fully consult with indigenous peoples in the context of development, land and resources. In their report, the authors of ELI also give a series of sources of extra-legal authority for prior informed consent. However, what they have not considered is that prior informed consent is increasingly being recognised as a human rights principle. This means that although prior informed consent is not recognised as an explicit right in the human rights treaties, the notion that prior informed consent is a prerequisite to exercise rights is recognised in the

interpretation of human rights by the relevant UN treaty bodies. For example, the UN Committee on Economic, Social and Cultural Rights (CESCR) in its interpretation of the human right to water as resulting from the International Covenant on Economic, Social and Cultural Rights (ICESCR) has stated that:

“Before any action that interferes with an individual’s right to water is carried out by the State party, or by any other third party, the relevant authorities must ensure that such actions are performed in a manner warranted by law, compatible with the Covenant, and that comprises:

- a) opportunity for genuine consultation with those affected;
- b) timely and full disclosure of information on the proposed measures;
- c) reasonable notice of proposed actions;
- d) legal recourse and remedies for those affected; and
- e) legal assistance for obtaining legal remedies.

(...) Under no circumstances shall an individual be deprived of the minimum essential level of water.”

## **2.2 The context: the new mining policy and the exercise of political rights in Guatemala**

Guatemala is a newcomer to the sphere of mining and therefore civil society and relevant NGOs did not recognise at once the far reaching impact of this type of exploitation of the country’s mineral resources. Hence, they did not react immediately when the new mining law Nr. 48-97, which allows a 100 % ownership by foreign companies, was passed in 1997. However, at the end of 2003, several national and regional NGOs together with indigenous, peasants, human rights organizations and churches began to protest against this development and the ensuing violation of human rights, environmental damages and social conflicts. In February 2004 a march was organised in Sipacapa, informative meetings were held, and documents were presented to delegates of the Congress and to the Ministry of Energy and Mining (MEM). By the end of 2004 the newly installed government of President Berger had given permission for about 413 mining licenses (recognition, exploration and exploitation). For those protesting the Marlin Mine became the focal point of their attention, as gold mining with cyanide is considered highly dangerous, detrimental to natural resources and a risk to people’s health. The protesters also asked to examine, under what circumstances the mining license for the Marlin Mine was granted in the Department of San Marcos.

In November 2004 representatives of the affected indigenous communities of Sipacapa and San Miguel Ixtahuacán and environmental organisations demanded, that the license granted to Exploradora Montana S.A. be revoked, as it was passed without observing the prior consultation right of the affected indigenous population under ILO Convention Art. 169. The population of Sipacapa has launched two international initiatives in this context: a complaint in January 2005 with the IFC/ World Bank Ombudsman to revise its 45

Mio \$ credit, and a report in March 2005 to the Interamerican Human Rights Commission in Washington with regard to the violent opening of the Panamericana highway in Sololá. The case was also presented to the UN Human Rights Commission in Geneva in March 2005.

In December 2004 a National Forum on Mining took place in Guatemala City with the participation of Government institutions, World Bank, UNDP, Canadian embassy, Montana enterprise and the Catholic church. As participation was by invitation only, there was no real representation of civil society groups, even indigenous participation was marginal and not representative. Therefore, a parallel forum was held by those NGOs and civil society representatives opposing the Governments's mining policy. Only then did many Mayan communities become aware of planned explorations in their territories and the potential implications this might have for their land and health.

The official promotion of mining projects and politics cannot be considered an isolated phenomenon of economic promotion in Central America, but must be seen as part of the neoliberal development model. In view of economic globalisation national business and industrial circles do not invest any more so much in national productive industries but started to invest in the growing finance sector. Banks and private enterprises, mainly foreign transnational companies, do invest in projects which exploit the natural resources of the Central American corridor. Therefore, the government of Guatemala facilitates foreign investment in the country and makes efforts to improve the necessary infrastructure, and create favourable conditions for foreign investors, i.e. establish a legislation in order to protect foreign investments. One important step to achieve this neoliberal economic model was the adoption of CAFTA (Central American Free Trade Agreement) between the United States and countries of Central America, which led to widespread protests in Spring 2005. In spite of heavy protests the treaty was signed by Guatemala on March 10, 2005.

When it became clear that opposition against the mining projects and mining policies and the new CAFTA treaty was growing, President Berger and his cabinet made it quite clear that there would be no going back on this neo-liberal development model. A general climate of harassment, menaces and death threats against human rights activists and opponents to CAFTA and intended and existing mining projects has been unleashed during the past two years. The opponents to mining are being stigmatized as those who do not want that poor people partake in the endowments of modern civilisation and that the country enjoys the benefits of mining royalties and other income generating megaprojects or new "maquilas". Of course, there is no mentioning of the risks involved with regard to open pit gold mining with cyanide or the elimination of national labour regulations, just to cite two examples. According to government policies, adhering to CAFTA the commercial use of the country's natural resources seems to be the best way to conserve and preserve the environment and to develop the country's economy. And if this cannot be achieved the tendency is to make people believe that environmental disasters and other negative effects can be mitigated by compensatory projects and payments of the investing transnational companies.

### **2.3 Violations of the right to prior informed consent in the case of the Marlin Mine**

Montana (a 100 % property of the Canadian Glamis Gold Ltd.) received its license for open pit gold mining on an area of 20 square kilometres still under the Portillo government in the end of 2003. Since 2004 the newly installed government of President Berger was set on pushing even harder the promotion of new mining projects. In June 2004 the IFC (International Finance Corporation) of the World Bank, approved a US\$ 45 million credit to Glamis Gold for the Marlin Mine project in the Department of San Marcos and construction of the gold mine started. The credit was already disbursed in December 2004 and January 2005, even though opposition to the project was high.

The Marlin Mine lies at an altitude of 2000 m in the remote southwestern highlands of Guatemala between the San Miguel Ixtahuacán and Sipacapa municipalities in the River Cuilco basin, 30 miles southeast of Huehuetenango township. The area is mountainous, consisting of volcanic rocks and shows an open growth of regionally adapted pine trees. Water is not abundant, villagers complain about increasing water scarcity due to erratic and receding rain falls with ensuing conflicts about water usage. The population consists of indigenous Mam and Sipakapense subsistence farmers. The area is one of the poorest departments with up to 95% of the population living in severe poverty. Construction of the Marlin Mine is under way, its costs are estimated at US\$ 120 million. Average Annual Production is expected at 250,000 ounces of gold and 3.6 million ounces of silver, with estimated total reserves of 2.3 million ounces of gold at US\$ 350 per ounce and 36,277,453 ounces of silver at US\$ 6 per ounce<sup>3</sup>. This leads to an expected gross sales revenues of US\$ 821 million for gold and US\$ 217 million for silver, totalling more than US\$ 1.000 million.

The start of operation is scheduled for September 2005 and the estimated operation life of the mine is 10 to 13 years, but the licence granted extends up to 25 years.

As the company received the IFC loan, it stressed that project planning and realisation would be carried out according to World Bank standards. An Evaluation of Environmental and Social Impact (EIA) was ordered by Montana in 2003 and the company maintains that in order to inform the affected populations about the mine, to have distributed a shorter version in the regional Mam language. However, none of the regional groups in San Marcos or NGOs dedicated to the subject could present a copy of this document to the researchers and local people stated that they never received such information in their indigenous language.

During the research visit to San Marcos and when talking with people and representatives of communities of San Miguel Ixtahuacan and Sipacapa, as well as supporting NGOs, the biggest problem – besides the water and environmental problem which will be treated below more in detail -, remains that information and consultation of the indigenous Mam and Sipakapense (Mayan) communities did not take place contrary to

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<sup>3</sup> Source: [www.glamis.com](http://www.glamis.com), July 2005.

ILO Convention 169, as ratified by Guatemala. The indigenous Mayan inhabitants who mostly engage in subsistence farming complained about the way this project of an open pit gold mine was pressed upon them in a very coercive way. Even when later on meetings were held by Montana or governmental officials in order to inform about the project, any questions regarding environmental and health risks of the cyanide production process or other questions about possible dangers were not adequately answered by Montana or Ministry representatives. Although Montana and government officials maintain that they duly informed and consulted the affected Mayan communities, the researchers were informed by a broad range of local people that the only comprehensive information meetings they could recall were those held since 2004 by NGOs about the mining with cyanide and possible effects and dangers.

The Secretariat of Strategic Analysis (SAE = Secretaría de Análisis Estratégico) to the Presidency of the Republic of Guatemala in its highly critical report from May 2004 also cites the criticism expressed regarding the non-consultation of the indigenous peoples according to ILO Convention Art. 169, especially Art. 7, par.1, which states that the aforementioned peoples must have the right to decide upon their own priorities regarding the development process which will influence their life, believes, institutions and spiritual wellbeing and the land they inhabit or are using in whatever form, and that they control as far as possible their own economic, social and cultural development. Furthermore these people should participate in the formulation, application and evaluation of the national and regional development programmes which might affect them directly. The authors of the SAE report have lost their job after having written this critical report, as confirmed by several NGOs and the Viceminister of Energy and Mining.

The breaches of the ILO Convention 169 have become evident in the case of the Marlin Project. The researchers found that there was no due consultation process to get the informed consent of the indigenous communities. Moreover, there have been clear indicators of strong opposition to the project within the communities. According to an independent survey by the well known Vox Latina institute which was published by the Guatemalan newspaper Prensa Libre in November 2004, about 95 % of the inhabitants reject the project. More recently, on June 18, 2005, a popular consultation convened by the Municipal Development Council of Sipacapa was held despite massive threats and intimidations (Montana at the same time tried to prevent the referendum by complaint to a local court). The result was 2.455 votes (95%) against the project, 35 in favour and 32 abstentions. Although the Constitutional Court judged this referendum to be legal, the federal Government rejects to recognize this expressed will of the affected local population as legally binding. The neighbouring Municipality of San Miguel Ixtahuacán, where the main exploitation site is located, was also preparing its referendum by August 2005, due to its deception with non-kept promises of Montana regarding social investments in the community.

## **2.4 Buying consent – how Glamis Gold is trying to influence public opinion**

One of the conditions stipulated by the IFC/ World Bank is that the social impact of such a mining project like Marlin be mitigated by taking appropriate measures to ensure that indigenous and other affected peoples share the project benefits. Montana therefore engaged the Washington based Citizen's Development Corporation (CDC), to establish the "Fundación Sierra Madre" to carry out palliative small community development measures in order to enhance people's conformity with the mine. However, the inhabitants of Sipacapa already have a municipal integrated development plan developed by their own communities which has never been considered, and which foresees a broad range of alternative development measures. Local people complained that the Foundation Sierra Madre projects are negligible, reaching only persons who do agree with the mine and are considered as palliative measures to "buy people". They are concerned what kind of sustainable development can be expected through an institution that is basically controlled by the mining company. Projects carried out by the Sierra Madre foundation, for example, were a bakery and tree nursery, as well as sewing courses during which material had to be bought and the instructed women would have to buy sewing machines to continue with this type of work, although cheap second-hand clothes from the USA are flooding the region and are more competitive. The foundation also carried out a health survey in Sipacapa community, for which the community, however, had never asked.

On the whole the researchers got the impression that Montana's foundation Sierra Madre had not consulted the affected communities and did not work for their benefit, but was completely dependent on Montana funds, cooperating closely with the company in order to promote mining activities in the region. When confronted with the argument that mining is the only way to break the cycle of poverty in the region, representatives of Sipacapa always state (also during talks held with IFC in Washington) that "there are many paths to development. In any enterprise there are winners and losers, costs and benefits. We need to know the whole story to make good decisions".

In several meetings community representatives of San Miguel Ixtahuacán and Sipacapa told the researchers that gifts had been handed out by Montana to sway people's opinion in the company's favour. Also certain school grants were offered by Montana for school children who achieve good grades. Meetings informing about the mine and after which lunch was handed out, are considered like a bribe to be in favour of the mine. There is a suspicion that these kind of meetings which were held at several stages of the mine construction and at which participants had to sign to receive a meal, served as proof for having consulted the local indigenous people and having received their consent to the mining project. When reading documents about similar open pit gold mining projects in other countries it is obvious that it is quite common to show no respect to the local people in the projected mining area who often belong to the poorest segment of the population and mostly show a high percentage of illiteracy. Montana also organised paid visiting trips to the San Martin Mine in Honduras to convince Guatemalan government officials,

parlamentarians, local and regional community and church representatives as well as indigenous stakeholders of the benefits of open pit gold mining. The researchers received concrete proof of this assumption when visiting later on the area of the San Martin open pit gold mine in the Siria Valley of Honduras (also owned by Glamis Gold under the name of Entremares), where local representatives of affected communities confirmed this type of company handouts. In both cases Glamis dealings led to a strong division of the communities and a general atmosphere of conflict and one can therefore assume that the company, in connivance with government institutions, in both countries, applies a deliberate policy of “divide and conquer”.



### **3. Negative impacts of the Marlin mine on the enjoyment of the Human Right to Food and Water**

#### **3.1 The Human Right to Food and Water in Guatemalan and international law**

The human right to water is not explicitly mentioned. However, the UN Committee on Economic, Social and Cultural Rights (CESCR) interprets the right to an adequate standard of living (Article 11 of the International Covenant on Economic, Social and Cultural Rights – ICESCR) as including the human right to water and the human right to health. In its General Comment No. 15 the CESCR has laid down its interpretation of the content of the human right to water and the corresponding state obligations. While the Covenant as such is binding for states who have ratified it (like Guatemala), this interpretation is not directly binding but serves as an interpretative tool. Also the human right to water is closely linked with the human rights to food, housing and health. These rights are explicitly recognised in the Covenant in articles 11 and 12. Water and health are however mentioned in the Convention on the Rights of the Child, Art. 24c.<sup>4</sup> and in the General comment 6 CESCR on the economic, social and cultural rights of older persons.<sup>5</sup>

A similar constellation can be seen in the Guatemalan Constitution which explicitly recognises the right to food:

Article 51 (Protection of Minors and the Elderly):

"The State will protect the physical, mental and moral health of Minors and the Elderly. It will guarantee them their right to food, public health, education, security and social insurance."

Article 99 (Feeding and nutrition):

"The State will see to it that the food and the nutrition of the population meet the minimum health requirements. The specialized actions among themselves or with international organizations dedicated to public health to achieve an effective national food delivery system."

The right to water is not explicitly mentioned in the Covenant, but there is a recognition of water as a public property meant for social well-being.

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<sup>4</sup> (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

<sup>5</sup> In 1991 the General Assembly adopted the United Nations Principles for Older Persons which, because of their programmatic nature, is also an important document in the present context. It is divided into five sections which correlate closely to the rights recognized in the Covenant. "Independence" includes access to adequate food, water, shelter, clothing and health care.

Article 127:

“Water regime. All sources of water are public property, inalienable and without time limit. Their exploitation, use and enjoyment, are granted in the form established by law, in agreement with the social interest. A specific law will regulate this matter.”

Article 127 combined with the protection of the right to food in articles 51 and 99 provide a rather strong constitutional protection. The challenge is how to use these provisions in court and how to ensure that legislation is in line with the spirit and the provisions of the constitution. The Guatemalan Parliament is currently debating the water law as is requested by article 127. Explicit principles are social criteria like equal opportunities in the access and social participation in the water management, and sustainability of natural processes to maintain and regulate the water cycle. Although the future water law foresees water tariffs for its use, the Guatemalan Government has conceded the use of water to the Marlin Mine for free (250.000 l / h or 6 mn. l / day, details see chapter 3.3).

In its General Comment on the right to water the CESCR interprets this right in the following way: “The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related diseases and to provide for consumption, cooking, personal and domestic hygienic requirements. (para 2)” There are several aspects that the state has to ensure. Water has to be available; it has to be safe; people must be able to access it, both physically and economically (in case they have to pay for water or the provision of water); there must not be any discrimination in the access to water; and the state has to ensure the right to seek, receive and impart information regarding water issues (para 12).

Further, “The Committee notes the importance of ensuring sustainable access to water resources for agriculture to realize the right to adequate food. Attention should be given to ensuring that disadvantaged and marginalized farmers, including women farmers, have equitable access to water and water management systems, including sustainable rain harvesting and irrigation technology. Taking note of the duty in article 1, paragraph 2, of the Covenant, which provides that a people may not “be deprived of its means of subsistence”, States parties should ensure that there is adequate access to water for subsistence farming and for securing the livelihoods of indigenous peoples”<sup>6</sup> (para 7). According to para 6, water is required for a range of different purposes, ... Nevertheless, priority in the allocation of water must be given to the right to water for personal and domestic uses.

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<sup>6</sup> See also the Memorandum of Understanding accompanying the United Nations Convention on the Law of Non-Navigational Uses of Watercourses (A/51/869 of 11 April 1997), which declared that, in determining vital human needs in the event of conflicts over the use of watercourses “special attention is to be paid to providing sufficient water to sustain human life, including both drinking water and water required for production of food in order to prevent starvation”...

In para 23 the CESCR states that “The obligation to *protect* requires State parties to prevent third parties from interfering in any way with the enjoyment of the right to water. Third parties include individuals, groups, corporations and other entities as well as agents acting under their authority. The obligation includes, *inter alia*, adopting the necessary and effective legislative and other measures to restrain, for example, third parties from denying equal access to adequate water; and polluting and inequitably extracting from water resources, including natural sources, wells and other water distribution systems.” This underlines the importance of the water law that is currently being debated.

The Guatemalan Mining Law as it stands today (Decree number 48-97) gives the holder of a license the right to use water. At the moment, companies holding a mining license are not required to pay for the water they use. Article 71 of the Mining Law reads:

“Waters in the national domain and of common use. The titleholder to a mining license may use and rationally utilize water provided that said use does not affect the permanent exercise of the rights of others.

The use and utilization of waters that run within their natural riverbeds or are found in lagoons, that are not of public domain or of common use, will be regulated according to the dispositions of the Civil Code and of laws governing the matter. Whosoever makes use of water in their mining operations, upon returning it, must effect its adequate treatment to avoid contamination of the environment.”

### **3.2 The failure of the state to protect the right to water**

Environmental damage has to be seen in a future context, because the removal of top soil, large-scale deforestation of the fragile mountainous pine forest and big excavations with continuous rock detonations by explosives, causing heavy dust pollution, have only started in 2005. Moreover, the total surface extension of the mine is still not fixed but depends on what deposits will be found during exploration or will be detected in the future (the license extends to 20 km<sup>2</sup> but the mine presently uses “only” 5 km<sup>2</sup>). Montana promises – as expressed by the director of its Sierra Madre Foundation – to leave the whole mining area reforested as it has been before. However, experiences from other countries show that these promises look very well on paper but leave much to be desired in reality (see below two examples).<sup>7</sup> According to Dr. Robert Moran, a renowned US hydro-geologist, who carried out an independent appraisal of Montana’s Environmental

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<sup>7</sup> In January 2000, a tailings dam at the Baia Mare mine in Romania split open, releasing more than 100.000 t of wastewater laden with cyanide and heavy metals into the Tisza river, killing 1.240 tons of fish and contaminating the drinking water supplies of 2.5 million people. Faced with the cleanup costs the Australian company Esmeralda Exploration Ltd. went into a form of bankruptcy to protect its shareholders.

Galactic Resources Inc., a Canadian mining company, stuck US taxpayers with a \$200 million bill when it declared bankruptcy and walked away from its Summitville gold mine in Colorado in 1992. The 1.400 acre mine had been leaking cyanide into the Alamosa River watershed since its first week in operation and by the time it closed, had destroyed 25 kilometers of the river.

Impact Assessment (EIA), this EIA does not treat many of those subject matters (or does so in a faulty manner), which are fundamental to grasp the understanding of this type of mining project. The most relevant point in his criticism is water usage, effects on river flow, subsoil water levels, location of deep wells and chemical composition of the treated rock material and remaining residues. Dr. Moran also criticises that lining of tailing dams<sup>8</sup> was not planned for with the argument that “at Marlin it is not an option due to the mountainous setting of the region” (see IFC Project description). On the basis of haphazard data given in the EIA and other company and government documents publicly available, Dr. Moran’s study finds that there is a high risk of acid drainage<sup>9</sup> from the rock material.

As has been cited above, the Guatemalan state has the obligation to protect the people’s right to water. While the state has to take action when a third party has polluted the water source or is denying access to water to individuals, it also has to take precaution so that such a situation will not occur. Therefore the authorities acted both irresponsibly and not in accordance with human rights standards when approving the project without having received adequate information on the possible negative effects on water quality and quantity. Although the Guatemalan authorities have been presented the fact that the information the company provided was inadequate, the license has not been revoked. Following General Comment 15 of the CESCR this has to be seen as a violation of the human right to water as “violations of the obligation to protect follow from the failure of a State to take all necessary measures to safeguard persons within their jurisdiction from infringements of the right to water by third parties.” This includes, inter alia the “failure to enact or enforce laws to prevent the contamination and inequitable extraction of water” (para 44).

### **3.3 Conflicts over future access to water**

The water question becomes now a main source for conflict in the area. Water has been scarce in the region as confirmed during all meetings and talks held during the research visit in San Marcos. Vice Minister of Energy and Mining Mr. José Garcia presented statistical tables to the researchers stating that there are abundant rainfalls in the area with high levels of water all year around. The latter argument has been refuted

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<sup>8</sup> See also: Tailings Dams – Risk of Dangerous Occurrences, Lessons learnt from practical experiences, Bulletin 121, Published by UNEP; Tailings Dam Incidents, U.S. Committee on Large Dams; Environmental and Safety Incidents concerning Tailings Dams at Mines, report prepared for UN Environment Programme, Industry and Environment, Paris 1996.

<sup>9</sup> When rock surfaces are exposed to air and rain, a reaction can occur with the elements in the rock which results in a change in the characteristics of the water that drains off. If the rock contains sulphides, a natural oxidation process can acidify the water. This is known as acid drainage (also acid rock drainage (ARD) or acid mine drainage (AMD)). As the water becomes more acidic, its capacity to leach out other elements from the rock, such as metals, increases. The resulting drainage can become very acidic and contain a number of harmful constituents. In some cases, elements from the rock can leach out into contact water without acidification and result in water contamination – this is known as metal leaching (ML). In either case, polluted water drains away from the exposed rock and can have significant impacts on surrounding water bodies (rivers, lakes, coastal areas, groundwater) and the wildlife or people in contact with them. Although this is a natural process, mining activities can trigger this phenomenon by exposing large surface areas of rock to water and oxygen. Rock is exposed on the walls of open pits and underground structures - but the most significant newly exposed rock surfaces are in the fragmented pieces of waste rock that are removed from the ground and placed in dumps.

not only by local residents but also by hydro-geological expert Dr. Robert Moran because there has been up to now no weather station near the mine in order to collect such conclusive data during a representative period of time. According to the local population, rainfalls and hence the water availability are erratic in the semi-arid mountainous climate. It is obvious that the water consumption of the Marlin mine of about 250.000 l/hour (which means 6 million litres daily) will severely affect the whole water household in the area even though the company claims to recycle the water up to 85 %.

Already now a severe conflict has erupted as witnessed by FIAN and Misereor because the community of San José Nueva Esperanza located near the mine bought several water sources and in a fraudulent way cut off the community of Chiningüitz from the well it had bought already ten years ago. Consequently Chiningüitz denied permission to transport the water across its land which caused representatives of San José Nueva Esperanza to adopt a threatening stance towards Chiningüitz and cut off the water. The community of Chiningüitz assumed that behind the water purchases by San José was the Marlin mine. This was confirmed in the meeting with Montana's CEO Tim Miller who said that the mine was buying water from surrounding communities for San José Nueva Esperanza as a community they expect to have significant population growth (immigration in search for employment) due to the mining operations within the next years. Thus the right to water of the Chiningüitz community has been threatened in the context of the Marlin Project.

Considering that the Marlin Mine is still under construction and full swing operation using the amount of water as mentioned above will probably start at the end of 2005, one can assume that even more conflictive situations will arise around water consumption by the mine. Montana states that the deep well (or wells) dug by the project will not affect water levels of the Cuilco river, whereas hydro-geologist Dr. Moran maintains, that the location of the well has not been disclosed so that it is not possible to make exact calculations as to the effect of the mine's water consumption of subterranean water.

In order to comply with its obligation to protect the access to water, there are several important steps which the Guatemalan state should take:

1. conduct a baseline survey on the existing conditions in the area,
2. present an action plan on how to fulfil the right to water of those who are already negatively affected by the mine or do not have access to water for other reasons but are located in the neighbourhood of the mine,
3. commission an independent risk assessment,
4. establish a monitoring system, which comprises technical aspects and includes a complaint mechanism for affected individuals, and
5. reach an agreement with the mine on payments for unexpected environmental impacts.

As long as these conditions are not met, the granting of the license for the mine has to be interpreted as the unwillingness of the Guatemalan state authorities to comply with the human right to water and the provisions of the International Covenant on Economic, Social and Cultural Rights and with the constitutional provision that water sources are a public good and that their exploitation has to be in accordance with the social purpose.

## **4. Democracy and Human Rights endangered: a call for international attention**

### **4.1 Threats to the physical safety of community activists**

The conflictive situation around the Marlin Mine escalated in December 2004, when the transport of heavy machinery of the mining company Glamis Gold of Canada, which operates in Guatemala as Montana Exploradora, was peacefully blocked on the Panamerican Highway for 40 days by people from Sololá in order to prevent the dismantling of a communally built pedestrian Passover. More than 1.300 police and military violently forced the passage of the machinery on January 11, 2005 resulting in the death of peasant Raul Castro Bocel and many injured. Furthermore, a plan to murder Bishop Ramazzini of San Marcos, an outspoken opponent of the mine and of government mining politics, was disclosed and led to worldwide protest against harassment and threats suffered by human rights activists.

During the visit to the project area in San Marcos and meetings held with affected communities, indigenous representatives and local and regional NGOs it became obvious that the case of the Marlin Mine is crucial for the future course of Guatemala, not only for the government but also for civil society. Regional and national NGOs lobbying the case have already made big efforts to publicise problems related to the Marlin Mine as well as violations of human rights in this context, and started to organize opposition to mining in Guatemala in general.

The role of the NGO Madre Selva as forerunner of the opposition to mining at a very early stage led to the organisation's members being repeatedly harassed and calumniated, resulting in their need for individual protection because of death threats received. Bishop Ramazzini of the diocese of San Marcos who in October 2004 adopted an open and strong position against mining, is a leading figure of the anti-mining movement and member of the High Level Commission of the Government. An overall discontent can be felt with the NGOs met, because the Government does not react to the complaints received, fails to carry on an open dialogue with the affected indigenous population and supporting NGOs. Nor does it keep its promise not to concede any more mining licences until the problem has been solved in a satisfactory way. Instead a general atmosphere of violence, harassments and threats of those opposing mining is increasingly suffered in Guatemala.

This growing violence against leading figures in social and ecological questions in Guatemala was confirmed by international human rights defenders in Guatemala who are confronted with an increasing demand of accompanying threatened persons or organisations. The subsequent actions taken by international solidarity NGOs, church organisations and national and regional groups caused at least an international focus on mining in Guatemala, so that the international funding agency IFC/ World Bank, the Canadian and German Governments, as well as several human rights entities of the United Nations (the Special Rapporteur on indigenous peoples), the International Labour Organization (ILO) as well as the Inter-American Commission on Human Rights, are confronted with the problem.

#### **4.2 Government attitudes: Ignoring the problem**

During talks held in the capital with NGOs as well as with the Human Rights Ombudsman's office and the Presidential Commission on Human Rights, many of the data collected became even more obvious: the Government seems to have adopted a strategy not to react to actions taken. Vice President Stein said, that there is the High Level Commission (Mesa de Alto Nivel) to deal with the problem, at the same time denying any kind of potential risks to environment and health by the use of cyanide in open pit gold mining and maintaining either that consultation according to ILO Convention 169 was held or denying that this international convention was applicable as there exists no ruling it under national law.

Vice Minister of Energy and Mining, José Garcia, backed up this attitude with documents and statistical tables trying to corroborate the Government's strong position to back up mining, and the open pit gold mine Marlin, as the outstanding economic factor which will promote the development of Guatemala and eradicate poverty in the areas destined for mining activity. When asked how the State of Guatemala could accept the – compared to international standards - ridiculously low payment of only 1 % of royalties from Montana, he maintained that further tax payments accrued by mining operations would follow. However, he did not mention that tax exemption had been granted to Montana until 2008, or that Montana uses huge amounts of water without having to pay. Up to now it is not known how possible future ecological damages and resulting health problems of the affected population, as well as the closing down of the mine and environmental recovery will be guaranteed and financed. There is a suggestion to create a trust fund in which Montana would have to deposit a certain amount of money, in order to ensure its corporate responsibility and liability in case of accidents. There are however no concrete steps for implementation.

The official government position was vehemently supported by the Canadian embassy (Ambassador James Lambert and advisor Ms. Ginette Martin). During a meeting held with the recently appointed German Ambassador Dr. Ellner, the latter not only openly expressed his support of the neo-liberal economic policy of the Guatemalan government, but also criticised Human Rights Ombudsman Sergio Morales. It became obvious that – maybe due to the short time of his stay in the country – Dr. Ellner did not understand the

importance of the Human Rights Ombudsman, nor the historic dimension of the peace treaty after the civil war and the importance of protecting, respecting and fulfilling human rights in Guatemala.

The states' representatives tried to label the opponents of the governments' mining policy as being against development, thereby maintaining the poor in their fate. When asked about possible health risks and water pollution they defended the use of cyanide as a safe production procedure already implemented in Honduras (San Martin Mine by the Glamis subsidiary Entre Mares), belittling a critical report of Caritas Honduras about mining and accusations regarding severe skin diseases among 70% of the population in the Valle de Siria since the open pit gold Mine has started its operations (2001). In the San Martin Mine, as Entre Mares is using millions of gallons of water per year, the ground water level has deteriorated so dramatically and several rivers have totally dried up, that the population has stayed without water and cannot feed themselves by agriculture like before. Nevertheless, Montana enterprise as well as the Guatemalan Government take groups of visitors to Honduras and to the San Martin mine to prove that there is no risk to health or resources. Of course, expenses for such trips are fully paid for by Glamis Gold.

When meeting Tim Miller, CEO of Montana, the subject of ILO Convention 169 was treated. He said that the convention does not say clearly how to do the consultation. What the company obviously did was an "information" campaign which only reached a small portion of the population. Mr. Miller maintained, that Montana did an extract of the EIA Environmental Impact Evaluation in MAM language, which however, as mentioned above, could not be found anywhere. He also said, that people did not read the documents. Considering that largely-spread poverty of the affected inhabitants correlates with high illiteracy this sounded rather cynical. When asked about the water problem in the area he said, that 85 % of water would be recycled, and that the water they sprinkle on roads was to control dust. However, in the Honduran Valley de Siria the local Environmental Defense Committee charged, that the mine sprinkles burnt machine oil onto the roads to control dust, which is really bad to health. CEO Miller said, that the company fulfilled all requirements according to World Bank standards, and this opinion was confirmed by IFC's director for Oil, Gas, Mining and Chemicals, Rashad Kaldany who had come for a short visit to San Marcos and the City of Guatemala prior to a visit by the IFC/ World Bank ombudsman.

The findings of the CAO (Compliance Advisor Ombudsman) became public on 22 August 2005, when the Financial Times quoted a copy of the draft report of the CAO as saying that the IFC had failed to allow sufficient time "to allow a reasonably informed consultation" into the Marlin mine proposal. "The IFC should have considered more systematically the potential risk on human rights at the project level, should have taken appropriate measures to mitigate the risks," the Financial Times quoted the report. The news agency Reuters also stated, that a spokeswoman for the IFC/ World Bank declined to comment on the Financial Times article. But she confirmed the Bank's CAO had drafted a report on the project. Reuters continued saying, that the criticism would embarrass the World Bank, which in 2004 decided to ignore an independent

review recommending it phase out lending to oil, gas or mining ventures, unless future projects would meet high environmental and social standards.

**Access to Land – no problem at all?**

After carrying out exploration work in the area later on destined for mining operations, Montana argued that the territory needed for the mine was only minimally used for agriculture, the Canadian ambassador even spoke of an area being like a desert (although it is visibly covered with native mountainous pine trees), and the IFC documentation states that “cultural attachment to the land is not strong”, which is a rather naive depreciative statement considering the Mayan’s special relationship to Mother Earth in the context of their cosmology. Wood gathering or other usage of the forest do not seem part of subsistence provision of foodstuff for the project promoters. As Montana started buying land at a very early stage - even before receiving the government license for exploration - through an intermediary company, resistance was practically non-existent. People did not understand what was going on and this non-resistance at that time has been interpreted as approval of the mining project. IFC in its documentation about the Marlin mine says, that prices offered for properties were higher than the value of comparable land, whereas the actual prices paid for the land were rather low according to local information, and persons who did not wish to sell their land were threatened with expropriation by the State.

The overall impression of the official talks held was that there is a strong current to promote mining at any cost and to deny any kind of errors made, or violation of human rights under ILO Convention 169 or the International Covenant on Economic, Social and Cultural Rights. There was only a very slight willingness to look into charges made by civil society with regard to non-fulfilment of ILO Convention 169. The researchers could not see that official representatives were willing to come to an agreement with the affected population or to stop construction of the Marlin Mine and enter into dialogue with civil society until all points of conflict would be dealt with in an acceptable manner. Only an assessor to the Human Rights Ombudsman was very well informed about the problems and conflict with regard to the Marlin Mine and mining in general and did understand peoples’ preoccupations as to health and environmental risks. In theory the Ombudsman for Human Rights has the competence to present a constitutional claim, and was already successful in other cases with this strategy, but this does not seem a realistic option being pursued. Instead, a report on mining prepared in May 2005 by the Ombudsman, was delayed by months in its publication, supposedly due to its critical content.

Apparently, in Congress there is no majority at present which might support a reform to the valid mining law. At the moment there are four reform initiatives. The indigenous congressman Alfredo Cojtí, Vice President of the Parliamentarian Environmental Committee had presented a reform proposal which has passed the Environmental Commission but got stuck by ignorance in the Commission on Energy and Mining. Certain aspects of his proposed reform like strengthening the consultation of the indigenous population according to

ILO Convention 169, as well as improvement of the Environmental Impact Assessment requirements before handing out licences, as well as a noticeable increase of royalties, are most likely not acceptable to congressmen loyal to the government. Other reform proposals are all still in the pipeline.

## **5. Conclusions**

The findings of the research mission lead FIAN and Misereor to the conclusion that in the case of the Marlin Project, the human rights to water and food, enshrined in the International Covenant on Economic, Social and Cultural Rights, are severely threatened. Furthermore, the Indigenous Peoples rights to be properly informed and consulted, as recognized by ILO Convention 169, have been ignored and violated. Finally, repressive measures against community protests have led to violations of political and civil rights in the context of the Marlin mining project. Therefore, FIAN International and Misereor ask the Guatemalan Government to review its mining policy under the criteria of international human rights treaties ratified by Guatemala, and to cancel the license given to Glamis Gold for the Marlin Project. There has to be a moratorium prior to the start of mining operations at Marlin, unless a real and free consensus with the local population has been reached.

FIAN and Misereor also express their concern that the US\$ 45 million dollar credit of IFC/ World Bank was granted for a project which is not in line with human rights requirements and its own safeguard policies, and has therefore to be cancelled. We therefore ask the World Bank to delete the stipulation in its new World Bank's policy for Guatemala that "IFC will continue to provide backing for extractive industries like the oil and mining sector", as it opens the door for further social and ecological conflicts and human rights violations.

## **Annex**

### **List of Institutions Contacted**

#### **San Marcos:**

About 70 local representatives from different municipalities affected by the Montana mining project in San Marcos

Director José Samuel Deras, Doctor Arturo Melville, Foundation Sierra Madre (Montana)

US-Organisation Citizens Development Corps (CDC), advisor Daphne Sorensen

Diverse places: meetings with a broad series of leading representatives of churches, indigenous, peasants, human rights and environmental organizations affected by and dealing with mining in various departments of Guatemala (due to acute threats and intimidations, their names are not published).

#### **Guatemala-City**

Human Rights Office of the archdiocese of Guatemala (ODHAG)

Human Rights Ombudsman Office (PDH), Studies and Analysis Department

*Vice Minister for Energy and Mining, José García*

World Bank, Carmen Gadala, Analyst of Public Information

International Finance Corporation (IFC), Rashad Kaldany, Director Oil, Gas, Mining and Chemicals Department; Hannfried von Hindenburg, Media and Marketing Account Manager

Canadian Embassy, Advisor Ginette Martin.

German Ambassador Dr. Claude-Robert Ellner

Centre for Environmental and Social Legal Action (CALAS), Director Yuri Mellini, Rafael Maldonado

Montana (daughter company of the Canadian Glamis Gold), CEO Tim Miller

Manuela Alvarado, Deputy of the Presidential Commissioner for Human Rights (COPREDEH).

US-Hydro-geologist Dr. Robert Moran

**Sources:**

ActionAid Guatemala, Mesa Global Guatemala: Análisis del Texto Tratado de Libre Comercio, Estados Unidos – Central América, Abril 2004.

Bank Information Centre, Glamis en Guatemala: Un Boletín sobre la Mina Marlin, March 22, 2005.

Bank Information Centre: A Project Alert on the Marlin Mine, March 23, 2005.

Committee on Economic, Social and Cultural Rights: “General Comment No. 15. The Right to Water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), 2002.

Crosby Girón: Guatemala: Gobierno y Montana, una alianza que brilla. Sospechoso esquema de relaciones entre funcionarios y Montana. Considerable explotación de minerales metálicos. Señalan a ex alcalde de recibir favores económicos de Montana. En: Inforpress Centroamericana, Ed. 1603, 15.4.2005.

Environmental Law Institute “Prior Informed Consent and Mining. Promoting the Sustainable Development of local Communities”, 2004

Frente por La Vida: La Minería de Oro a Cielo Abierto. Caso de explotación minería en San Miguel Ixtahuacán y Sipacapa, San Marcos. Noviembre 2004.

Glamis Gold Ltd. website: [www.glamis.com](http://www.glamis.com).

IFC publications ([www.ifc.org](http://www.ifc.org)).

Mining Watch Canada Mines Alert, AI Action April 5, 2005 – Death Threats in Guatemala against community leaders opposing the mining operations of Glamis Gold, May 4, 2005.

Procuraduría de los Derechos Humanos, Unidad de Estudio y Análisis: La Minería y los Derechos Humanos. Guatemala, May 2005.

Robert E. Moran, Ph.D.: Nuevo Pais, La Misma Historia: Revision del EIA del Proyecto Glamis Gold Marlin Guatemala. Golden, Colorado, USA, February 2004. [www.miningwatch.ca/issues/Guatemala/Moran\\_Marlin\\_rpt\\_sp.pdf](http://www.miningwatch.ca/issues/Guatemala/Moran_Marlin_rpt_sp.pdf).

Secretaría de Análisis Estratégicos (SAE, the Guatemalan President’s Secretariat for Strategic Analysis): Minería a cielo abierto en los contextos mundial, regional y nacional (“Open Pit Mining in global, regional and national context”), Guatemala City, May 2004.

Several articles from the newspaper “La Hora”, January 2005.

Several articles from the newspaper “Prensa Libre”, Guatemala 2004, 2005.

Personal interview protocols