

NICKEL MINING IN GUATEMALA



WHAT?

Nickel used and applied in e.g. engineering, electronics, batteries, construction and stainless steel

WHO IS INVOLVED?

- **Solway Investment Group** – the world's largest privately owned nickel producer, headquartered in Switzerland.
- **Subsidiary company CGN** owns the nickel mine in Izabal and Alta Verapaz
- **Subsidiary company PRONICO** owns the nickel processing plant



WHO IS AFFECTED?

Communities of the Indigenous Maya Q'eqchi' People in the departments of Izabal and Alta Verapaz.

HUMAN RIGHTS HARMES AND THEIR GENDERED IMPACTS



**INCREASE IN WORK
& CARE BURDEN**



**REPRESSION &
VIOLENCE BY STATE ACTORS**



**CRIMINALISATION OF
HUMAN RIGHTS DEFENDERS**

Water pollution makes more people sick, leading to a higher care burden for women who look after their family



**WATER POLLUTION
& LOSS OF LIVELIHOODS**



**BARRIERS TO
ACCESS JUSTICE**



**LACK OF
CONSULTATION**

WOMEN'S LIVED EXPERIENCES

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WHAT IS HAPPENING?

In Guatemala, the Indigenous Maya Q'eqchi' people and their communities in the departments of Izabal and Alta Verapaz have been fighting since 2016 to access justice in connection with environmental degradation and human rights abuses linked to nickel mining by the Solway Investment Group.

The company bought 98.2% of the Fénix nickel mining project in 2011, with the remainder owned by the Guatemalan government. It operates in Guatemala through its subsidiaries Compañía Guatemalteca de Níquel S.A. (CGN) and Compañía Procesadora de Níquel de Izabal S.A. (PRONICO).

CONTAMINATION

In January 2016, following several years of CGN-PRONICO mining operations, the Artisanal Fishermen's Guild (Gremial de Pescadores Artesanales, GPA) became concerned about a red slick in the waters of nearby Lake Izabal, which reportedly grew over several weeks and emitted a strong oxide smell. It also killed manatees (an endangered species), turtles, alligators and fish in the lake. The GPA raised concerns and requested an investigation by the government, as they suspected that runoff from the mining company was responsible for contaminating the lake.

Continuing contamination of the lake and a failure by the government to respond, despite its agreement to investigate, led the GPA to begin a period of protest against CGN-PRONICO, as well as make a formal complaint to the public prosecutor's sectional office for crimes against the environment, part of the public ministry. They demanded clarification as to the causes of contamination of Lake Izabal, a determination of criminal and civil responsibilities, and associated damages. In May 2016, Carlos Maaz, a 27-year-old fisherman, was killed during a GPA demonstration allegedly by police forces, although the case remains unresolved.

"We do not want to be without water, without mountains, there are many violations of rights that are being carried out. Not only that, but they are also stealing all the wealth from our hills without leaving anything in return, barely 1% pay for everything they steal, as well as damaging the lake and the rivers."

Maya Q'eqchi' woman living in impacted area in El Estor, Guatemala

COMPANIES INVOLVED

SOLWAY INVESTMENT GROUP – the world's largest privately owned nickel producer – is headquartered in Switzerland, with its parent company, **Solway Holding Limited** located in Malta. It operates globally, including mines and smelting plants in Guatemala, Ukraine, North Macedonia, Argentina and Indonesia.

CGN owns the Fénix nickel mine and extracts and sells nickel ore on the international market. **PRONICO** owns the nickel processing plant that processes nickel extracted from the Fénix nickel mine to produce ferronickel, which is widely used in engineering, transport, electrical and electronics, building and construction, and metal goods and tubular products.

In **2022**, the European stainless steel producer Outokumpu, reportedly supplier of Bosch-Siemens, IKEA, and Voestalpine Böhler Edelstahl, suspended all purchasing from the El Estor nickel mine.



Press conference of the communities in peaceful resistance of El Estor, Guatemala

LONGER-TERM CONTEXT

In 2017, the government established a dialogue process involving the GPA, the impacted communities and government officials, but later stopped this process. At the same time, the Ministry of the Environment and Natural Resources (MARN) and the Mining and Energy Ministry (MEM) absolved the mining company of any and all responsibility, suggesting instead that the contamination of the lake was caused by algae overproduction resulting from the population dirtying the water.

In the face of significant environmental damage,

and without adequate company or government response or remedy, the communities affected by the mining project faced years of challenges to restore the health of Lake Izabal and access justice via administrative and legal avenues. Throughout this period, they also faced repression and the criminalisation of their activities as human rights defenders.

The pollution of Lake Izabal and the subsequent struggle by the communities for redress should be understood in the longer-term context of government support to extractive industries operating in Indigenous territories. It also reflects an associated shift towards patriarchal militarisation measures that put corporate profit above people and planet, through what these communities describe as the 'breaking of cycles through which life is reproduced'.

"We want justice, but who is going to give us justice? If we go to [state institutions], they are bribed by the companies. Even the Public Ministry no longer favours the community, rather they imprison one, or they want they kill us. What we ask is that there would be good justice from the international court."
Maya Q'eqchi' woman living in impacted area in El Estor, Guatemala

IMPACT ON WOMEN AND COMMUNITIES

Women active in community advocacy and resistance have experienced significant impact on their homes, livelihoods and lives. They have had their chickens and pigs killed during home raids by the state, they experience a lack of employment opportunities in a mining industry skewed towards men, and they live with the chilling effect of ongoing intimidation and violence in their daily activities. The twin responsibilities of ensuring family income and providing care have also increased, with women forced to seek paid work following the criminalisation and arrest of male family members and having to care for people falling ill through contaminated water sources.

The apparent connections between mining company activities and environmental pollution, followed by a government failure to investigate promptly or effectively has led to a significant backlash against the affected communities' attempts to access justice. This situation raises questions in connection with human rights abuses and violations such as: the right to a clean, healthy and sustainable environment; the right to an

adequate standard of living including adequate food and housing; the right to life; protection from torture and cruel, inhuman or degrading treatment or punishment; the right to protection from arbitrary or unlawful interference with privacy, family or home; the right to self-determination; the right to health; and cross-cutting guarantees of non-discrimination and equality.

COMMUNITY ACTION AND VISIONS FOR THE FUTURE

In 2019, the Maya Q'eqchi' communities initiated legal proceedings before the Supreme Court of Justice of Guatemala, which ordered the Ministry of Energy and Mining to conduct a consultation of the people as established by International Labour Organization (ILO) Convention 169. This ruling was upheld in 2020 by the Constitutional Court of Guatemala, which also ordered a reduction in the Fénix nickel mining project area.

In 2021, the Constitutional Court reaffirmed the obligation of the government to carry out consultations with affected communities. This process was subsequently denounced by the communities on the basis that these took place during a government-declared state of siege and failed to include ancestral authorities elected by the communities or the affected communities themselves. They also took place with little participation from women. Amid these complaints, the consultation process was validated by the government, and the mine recommenced operations.

ILO CONVENTION 169

ILO Convention 169 is the major binding international convention concerning Indigenous peoples and tribal peoples and includes provisions outlining rights relating to land, consultation and decision-making regarding economic, social and cultural development. It is a forerunner of the UN Declaration on the Rights of Indigenous Peoples.

'MINING SECRETS' REPORT

In 2022, 'The Mining Secrets' report was released, revealing that the mining company hid monitoring, environmental evaluations and other internal reports. It concluded that the reddish lake water with a ferrous smell that fishers had detected in Lake Izabal came from the mine. The report was compiled by 65 journalists and 20 media

outlets worldwide following a leak of 8 million company documents and purportedly provided evidence of Solway’s operational and territorial control strategy, as well as company influence of government and security force operations to align with its interests. As a result, the stainless steel producer Outokompu cancelled commercial ties with Solway after its own investigation confirmed issues raised by the report^{xxi}, and the popular Austrian Salzburg Festival announced the rescission of its sponsorship agreement with Solway. Communities are calling for similar action by other companies with ties to CGN-PRONICO, as well as greater participation of women’s

voices in decisions that affect their territories and measures to prevent the corporate capture of state institutions.

PETITION

In June 2022, the communities presented a petition to the Inter-American Commission on Human Rights against the State of Guatemala, requesting revision of the legal status of land held by the mining company, assurance of the right to prior, free and informed consent, and the cessation of criminal legal repression of the communities by the government.

The nickel mine in El Estor, Guatemala



PATHWAY TO A FEMINIST CORPORATE ACCOUNTABILITY FRAMEWORK

Women around the world continue to experience business-related human rights abuses and violations differently and disproportionately: from significant barriers to access justice and discrimination in the labour market, to gender-based violence, uneven domestic workloads and unpaid care duties. Systemic gender impacts connected to corporate activities are particularly felt by women in the Global South. Business activities often have a negative impact on people and the planet. The need for a feminist corporate accountability framework in line with human rights obligations and planetary boundaries is urgent.

CURRENT STANDARDS ON BUSINESS AND HUMAN RIGHTS

In the context of the international human rights framework as well as through voluntary commitments, global steps have been taken to adopt rules relating to women, business activities and human rights.

With a specific focus on corporate activities, the UN Guiding Principles on Business and Human Rights (UNGPs) were endorsed by the UN Human Rights Council in 2011 and designed to protect and respect human rights, prevent adverse impacts and ensure access to remedy for business-related harms. The OECD Guidelines for Multinational Enterprises further set out guidance around human rights due diligence requiring businesses to identify, prevent and mitigate adverse impacts and to account for how they address them.

However, the voluntary nature of these existing standards has not translated into meaningful change. And women's experiences are largely excluded from corporate accountability frameworks.

GENDERED IMPACTS OF CORPORATE CONDUCT

Case studies, such as this one, offer specific examples of how women from groups in various contexts experience corporate-related abuses in different and disproportionate ways.

For example, in Uganda, over 35,000 people were forcibly removed from their homes in Kyriandongo by agribusinesses linked to the Global North.

Following the evictions, women experienced violence, loss of livelihoods and restricted access to water and firewood.

Granite mining, in Zimbabwe, connected to Chinese and European companies and investors has impacted on the region's small-scale agriculture due to widespread clearing of vegetation. This male-dominated sector has a knock-on effect for women such as a lack of employment opportunities and increased likelihood of gender-based violence.

In Guatemala, nickel mining by the Swiss-based Solway Investment Group causes significant environmental damage in El Estor, Izabal. Women active in community advocacy have experienced impacts on their lives through ongoing criminalisation and repression.

A UN Treaty on business and human rights offers an opportunity for states to fulfil their obligation to respect, promote and protect human rights, put an end to harmful corporate activities, and harmonise international rules for businesses.

Large-scale sisal cultivation in Taita Taveta County in Kenya raises human rights issues connected to land dispossession and employment circumstances. Women face gender-blind working conditions and a loss of livelihoods due to environmental degradation.

A FEMINIST PERSPECTIVE

Since 2014, in the context of an open-ended working group of the UN Human Rights Council, states come together every year to advance on an international legally binding instrument on business and human rights. Significant progress has been made to secure a gender-responsive treaty, including acknowledgement of the disproportionate impacts on women and girls, agreement on the need for states and businesses to integrate a gender perspective and gender-sensitive access to justice.

Despite advances, the adoption of a treaty is still several years away. Powerful business lobbies and a lack of engagement of a number of major economies, where transnational companies are based, hamper the treaty process. At the same time, while it is a positive step, the development

of mandatory human rights due diligence laws at national and regional levels can also undercut progressive approaches at the international level.

With these concerns in mind, constructive engagement of states to incorporate a feminist perspective and build upon progress that has been made so far is needed.

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FIVE KEY RECOMMENDATIONS

To address the structural and gendered impacts of transnational corporate activities during the upcoming session of the working group on the UN Treaty, we call upon states to:

- 1. Engage constructively in the treaty process, build on previous negotiations,** and harmonise with human rights and environmental obligations, including by maintaining and strengthening gender-responsive provisions.
- 2. Ensure women are at the heart of the conversation,** leading with maxim “nothing about us, without us”.
- 3. Prevent harm to people and planet,** including provisions that encourage effective substantive equality analysis and practice.
- 4. Make things right when harm occurs,** ensure that systems of legal liability and provisions governing access to justice, remedy and support services are gender-responsive.
- 5. Put corporate accountability at the heart of broader measures towards economic, climate and ecological justice and transformation.**

Women around the world continue to experience business-related human rights abuses and violations differently and disproportionately: from significant barriers to access justice and discrimination in the labour market, to gender-based violence, uneven domestic workloads and unpaid care duties. Systemic gender impacts connected to corporate activities are particularly felt by women in the Global South.

This case study is part of the report “Pathway to a Feminist International Corporate Accountability Framework: cases from Uganda, Zimbabwe, Guatemala and Kenya”, which can be found at actionaid.nl/UNBT

ABOUT THIS REPORT

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Maya Q'eqchi' woman from El Estor,
Guatemala a community greatly
impacted by nickel mining activities