

Indigenous Opposition to Mining Activities in Latin America: A Comparison of Multi-Scalar
Strategies in Guatemala, Panama, Colombia and Peru

by

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ABSTRACT

Indigenous people are often at the contested juncture between transnational mining companies, liberalized economies and local communities. This paper contributes to the understanding of the strategies and tactics employed by indigenous people in multi-scalar mining conflicts through a comparison of four cases in Guatemala, Panama, Colombia and Peru. A systemic review and analysis of grey and academic literature was undertaken to chronicle and detail the main strategies and tactics used by indigenous communities in these cases. Indigenous peoples use the multi-scalar strategies and tactics of (1) direct action, and (2) independent review and dispute mechanisms, when opposing mining activities. These strategies are used to create and exploit opportunities at other scales. Direct action strategies of road blockades and demonstrations can be used as effective strategies to gain short term concessions from other parties. Independent reviews and third party complaint processes work to establish opportunities for indigenous communities to engage with other parties in transnational forums.

CHAPTER 1: INTRODUCTION

The mining industries of Latin American countries have expanded over the last two decades, driven by rising mineral prices, neoliberal economic reforms and increased investment flows (Bridge 2004). While new frontiers of mineral extraction were created in Latin America, significant ethnic movements, demanding special rights as indigenous people, emerged as democratic governments replaced authoritarian regimes (Yasher 2005; Postero and Zamosc 2004).

Regionally, an increasing number of conflicts associated with the extractive mining industry has also been observed, due to the often adverse social, environmental and economic impacts that have accompanied the growth of this industry (Gordon and Webber 2008; Bebbington *et al.* 2008). Currently, OCMAL (The Latin American Observatory of Mining Conflicts) reports that in 2011 there were 155 mining-related conflicts in Latin America (OCMAL 2011). As Bebbington *et al.* (2008, 900) note, “the geography of mineral expansion has thus also become one of changing forms of protest and instability.”

Often at the forefront of this contested juncture between transnational mining companies, liberalized economies and local communities, are indigenous peoples. In 2011, mines engaged in conflicts involving indigenous communities accounted for approximately 20% of all the mining projects in Latin America (MICLA 2011). What have emerged from these conflicts are locally rooted yet multi-scalar indigenous anti-mining movements (Urkidi 2011; Gedricks 2001).

1.1 Indigenous peoples and their rights

An important starting point in any discussion involving indigenous peoples is to ask who they are. Many definitions have been put forth by numerous individuals, groups, organizations and institutions. Yet the process of defining indigenous peoples at a universal scale is limited, as any definition would be too vague or too specific. However, it is important to engage in this discussion, as indigenous peoples around the globe – representing a vast category of ethnicities and nations – do face specific and similar struggles in terms of human rights and extractive industries.

A simple but inclusive definition developed by Bodley (2008, 4) states that indigenous peoples are “a group of contemporary people who identify themselves with a specific **small-**

scale society, a **unique cultural heritage**, and an **ancestral territory**.” [Emphasis added]. Institutions concerned with indigenous issues have explicitly or implicitly defined indigenous people simply for practical reasons. Primary among them is the United Nations (UN) and the International Labour Organization (ILO), which have been at the forefront of establishing international norms regarding the unique status, challenges and rights of indigenous peoples.

1.1.1 International Charters on Indigenous Rights

There are two main international agreements that define indigenous rights worldwide. Both highlight the importance of self-identification, and have established a common position that rejects a need to establish a universal and formal definition of indigenous peoples. The first is the legally binding International Labour Organization Convention 169 (ILO 169), adopted on June 27th 1989. ILO 169 is the most important international guarantee of indigenous rights, and has been used to guide judicial decisions regarding indigenous claims to their rights at a national scale (Sieder 2002). The second is the non-binding United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the UN General Assembly on September 13, 2007.

Both documents outline some of the fundamental and special rights relegated to indigenous communities including: the right to self-determination; the responsibility of states to provide a mechanism to prevent “any action which has the aim or effect of dispossessing them of their lands; territories or resources” as well as the right to free, prior and informed consent regarding the relocation of indigenous peoples from their land; the rights to control, own and develop lands, territories and resources; and, the right to legal recognition of their land and these rights (United Nations 2007, 5; International Labour Organization).

1.2 Research Aim and Questions

While many mining companies operating in or near indigenous communities have policies aiming to ensure socially responsible and environmentally sustainable practices, campaigns rooted in struggles for the recognition, in practice, of these rights **still exist** (Bebbington *et al.*, 2008). The aim of this research project is to better understand how indigenous peoples are defending their rights and opposing mining activities, including how they do so given the multi-scalar nature of these conflicts. In order to address this aim, I focus my inquiry on the strategies and tactics that indigenous communities use in their struggles and ask the following questions:

1. what are the main strategies and tactics that indigenous communities use to oppose mining activities and defend their rights?; and,
2. how are these strategies used within the context of multi-scalar mining conflicts?

1.3 Methodology

To frame my study, and approach the research questions detailed above, I have carried out a comparative case study analysis. An overview of existing conflicts between indigenous peoples and mining activities was the first step in answering my research questions. After gaining a sense of the cases that exist, I focused on **four specific cases** in order to gain a more meaningful understanding of the ways in which indigenous people defend their rights when confronted with extractive projects. These case studies were purposefully selected based on their comparability regarding the oppositional strategies and tactics used by indigenous communities, as well as the amount of academic and grey literature available (*see Section 1.3.1*).

My research methodology is centered on the systemic review of both academic and grey literature, and other media; this includes peer-reviewed studies and articles, books and encyclopaedias, university theses, newspaper articles, NGO publications and press articles, activist reports and announcements, broadcasts, reports from institutions and governments, and legal documents. In terms of newspaper articles, I consulted both Spanish and English language publications and newspapers of record. These sources were stored and sorted in Excel spreadsheets by country. Because of the breadth and quantity of information available and the need to categorize it, in order to clarify sequences events and the pertinent details of each case, qualitative information was categorized by ‘variables’ in tables (see an example template in Appendix A). This information was also used to created conflict timelines of major developments in each case, viewable in Appendix B.

1.3.1 Justification of case studies

My case studies are located in Guatemala, Panama, Colombia and Peru (see Figure 1.1). In Guatemala, I focus on the conflict surrounding the Marlin gold mine in the province of San Marcos. In Panama, I examine the conflict surrounding the Cerro Colorado copper deposit mine site. In Colombia, I examine the El Cerrejón coal mine in the northernmost province of the country, La Guajira. In Peru, I focus on the recent indigenous anti-mining mobilisations in both

the Puno and Bagua regions. More detailed information regarding each case study is presented in Section 2.5.

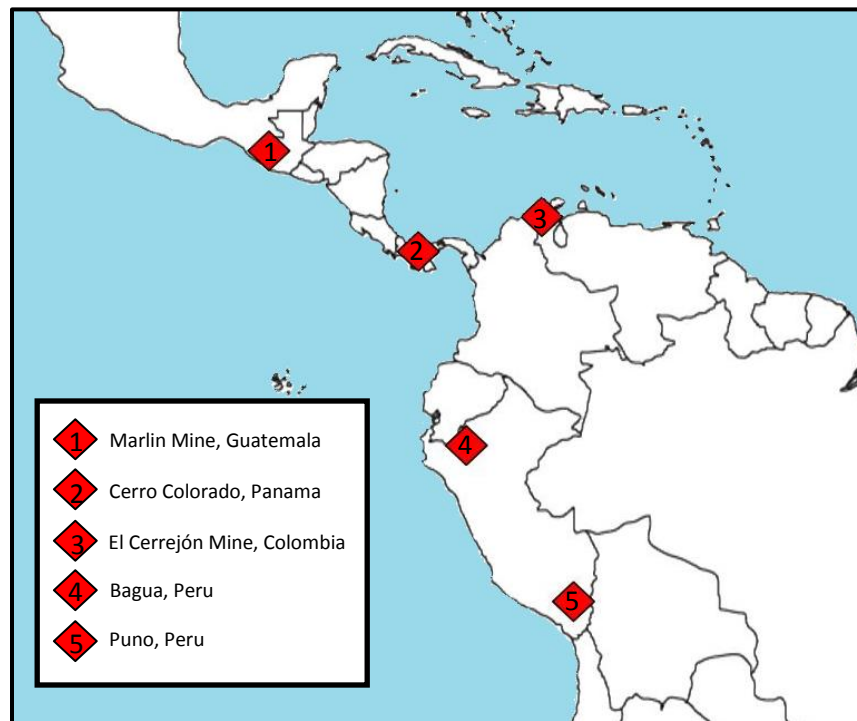


Figure 1.1: Map showing the location of case study mining conflicts.

In two of these cases – Peru and Panama – while concessions have been granted and exploration activities have been undertaken, in neither case has exploitation or production of mineral resources begun. In the case of Guatemala and Colombia, both mines have been operating for a number of years. Including cases where the mine project is in two very different stages is important for our analysis of the different kinds of strategies and tactics indigenous anti-mining movements engage in and employ depending on the differing context and challenges they face. Of the two cases where the mine project is in exploration, they have followed similar complaint processes with different results.

In Guatemala and Panama, the national mining company technically owning and operating the mine site is a subsidiary of a transnational mining firm, and in the case of Colombia, a consortium of three transnational firms. The Guatemalan mine also received funding from the International Financial Corporation, a member of the World Bank. All of the countries have bilateral free trade agreements with Canada, the U.S., or both. In the case of Colombia, the country maintains free trade agreements with the European Free Trade Association and

Switzerland, but not Australia. The inclusion of two sets of cases at different stages of project development is crucial in addressing the two primary settings within which indigenous groups are opposing mining projects.

Each case study differs in terms of the percentage of the country population that is indigenous (see Table 2.2). While these figures are estimates, they do allow for a general understanding of a country's demographics. Including only case studies where indigenous people represent a significant proportion of the population would constitute a selection bias by excluding those countries where they are not, and this is important in order to examine if indigenous population is a factor in affecting policies related to their rights (Van Cott 2010). Van Cott's assessment of Latin American countries' commitments to a 'multicultural regional model' of constitutionalism ranks Colombia and Panama as strongly multicultural, and Guatemala and Peru as modestly so. The inclusion of cases where indigenous peoples are more and less incorporated at a national scale may inform the type of strategies and tactics they choose to employ.

Regarding the ratification of the two formative international frameworks outlining and protecting indigenous rights (ILO 169 and UNDRIP), Panama is the only case where the state that has not ratified ILO 169, and all four states have signed the UNDRIP. In all cases except Panama, then, states have formally accepted to adopt the standards of indigenous rights outlined in these charters as applicable to their own national laws and policies.

1.4 Thesis structure

In Chapter 2, I review the literature pertinent to my research project and establish the contextual factors framing this thesis, including background information for each case study. In Chapter 3, I present a theoretical framework and discuss geographical perspectives examining indigenous movements and multi-scalar conflicts rooted in resource extraction. Here I also outline my main argument regarding indigenous strategies and tactics that are employed to oppose mining activities. In Chapter 4, I present and discuss my first finding regarding indigenous strategies and tactics of resistance, and the use of direct action. In Chapter 5, I critically examine how indigenous communities use the strategies and mechanisms of third party reviews and complaint processes. Finally, in Chapter 6, I conclude my thesis with an examination of my main findings and observations.

CHAPTER 2: CONTEXTUALIZING THE STUDY

2.1. Introduction

Indigenous communities that oppose mining activities do so for many reasons, and in order to engage in any meaningful examination of these struggles it is necessary to understand the historical contexts within which they are imbedded. These conflicts are contextualized via an overview of three intersecting themes (see Figure 2.1). Throughout this Chapter, the multi-scalar nature of processes and actors in each body of literature is maintained as a guiding thread.

First, I present a brief overview of the relationship between a shift in economic and political frameworks adopted by Latin American states in the 1990s and the paralleled reforms and expansion of their mining industries (2.2). Second, I outline the impacts of mining on indigenous people (2.3) and examine the internationalization of contemporary indigenous movements (2.4). Finally, it outlines each case study in more depth (2.5).

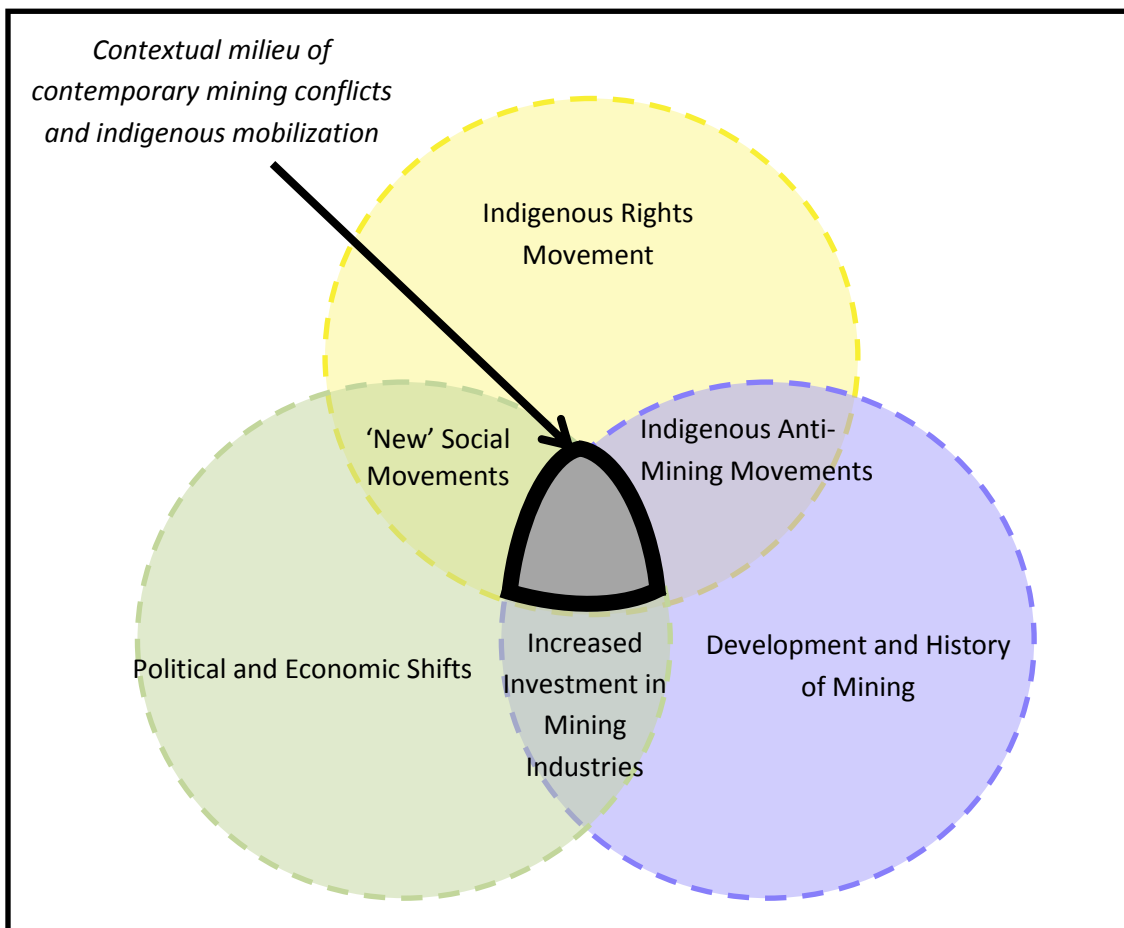


Figure 2.1 Contextualizing conflicts through three themes.

2.2. Neoliberalism and mining in Latin America: two intertwined trajectories

2.2.1. Opening Latin America's mining industry: neoliberalism and the 1990s

The 1990s saw the liberalization of national economies and shifts from military and authoritarian regimes to democratically elected governments. Neoliberalism in ideology and practice became more dispersed and ingrained during this time, established by democratically elected governments. These changes were in part facilitated by the expanded influence of foreign governments, especially neoconservative regimes that supported a neoliberal agenda, and international financial institutions, such as the International Monetary Fund and the World Bank, on the national policy of Latin American countries (Gwynne and Kay 2000; Perreault and Martin 2005; Petras and Veltmeyer 2011). Along with a trimming of state supported social services was a reduction in policies that redistributed wealth, and this weakened the regulatory capacity of governments for public sector spending (North 2006).

In terms of economic policy, neoliberal restructuring in Latin American introduced measures to remove barriers to trade and investment. This included the privatization of state-owned enterprises, the reduction of taxes, and preferential treatment and subsidies for private investors stimulating 'key' industries (Gordon and Webber, 2008; Stokes 2001; North, 2006). Essentially, Latin American countries experienced an 'opening' of their national economies as they became increasingly incorporated into a globalized economic system through neoliberal policies (Larner, 2003; Petras and Veltmeyer 2011).

This process of neoliberal globalization enabled foreign multinational corporations to gain access to the economies and natural resources of Latin America countries, primarily through the promotion of free trade between North, Central and South America (Gordon and Webber, 2008). The policy changes mentioned above facilitated the observed increase in large-scale foreign direct investment (FDI) into many Latin American countries (see Table 2.1, Figures 2.2 & 2.3). South America's share of global investment alone increased from 18% to 39% between 1990 and 2001 (Bridge, 2004). This neoliberal restructuring became formalized and codified through official continent wide trade agreements, such as the North American Free Trade Agreement (NAFTA), and other treaties between individual states, for example the 1997 free trade agreement between Canada and Chile (Daudelin, 2003). These reforms were implemented by mainly new democratic regimes, who had replaced the military and authoritarian governments of the 1980s (Petras and Veltmeyer 2011). However, large segments of the populations of many

Table 2.1: Regional distribution of FDI inflows and outflows, 1989 – 2000 (Billions of dollars)

Region/country	FDI inflows							FDI outflows						
	1989-1994 (Annual average)	1995	1996	1997	1998	1999	2000	1989-1994 (Annual average)	1995	1996	1997	1998	1999	2000
Developed countries	137.1	203.5	219.7	271.4	483.2	829.8	1 005.2	203.2	305.8	332.9	396.9	672.0	945.7	1 046.3
Western Europe	79.8	117.2	114.9	137.5	273.4	485.3	633.2	114.2	173.6	204.3	242.4	475.2	761.1	820.3
European Union	76.6	113.5	109.6	127.6	261.1	467.2	617.3	105.2	159.0	183.2	220.4	454.3	720.1	772.9
Other Western Europe	3.1	3.7	5.2	9.9	12.3	18.2	15.8	9.0	14.6	21.1	22.0	21.0	41.1	47.4
Japan	1.0	-	0.2	3.2	3.3	12.7	8.2	29.6	22.5	23.4	26.1	24.2	22.7	32.9
United States	42.5	58.8	84.5	103.4	174.4	295.0	281.1	49.0	92.1	84.4	95.8	131.0	142.6	139.3
Developing countries and economies	59.6	113.3	152.5	187.4	188.4	222.0	240.2	24.9	49.0	57.6	65.7	37.7	58.0	99.5
Africa	4.0	4.7	5.6	7.2	7.7	9.0	8.2	0.9	0.5	0.0	1.7	0.9	0.6	0.7
Latin America and the Caribbean	17.5	32.3	51.3	71.2	83.2	110.3	86.2	3.7	7.3	5.5	14.4	8.0	21.8	13.4
Asia and the Pacific	37.9	75.9	94.5	107.3	95.9	100.0	143.8	20.3	41.1	51.9	49.4	28.7	35.5	85.3
Asia	37.7	75.3	94.4	107.2	95.6	99.7	143.5	20.3	41.1	51.9	49.4	28.6	35.4	85.2
West Asia	2.2	-	2.9	5.5	6.6	0.9	3.4	0.3	- 1.0	2.3	- 0.3	- 1.7	0.7	1.3
Central Asia	0.4	1.7	2.1	3.2	3.0	2.6	2.7	-	0.3	0.0	0.2	0.3	0.3	0.3
South, East and South-East Asia	35.1	73.6	89.4	98.5	86.0	96.2	137.3	20.0	41.8	49.7	49.5	30.0	34.4	83.6
South Asia	0.8	2.9	3.7	4.9	3.5	3.1	3.0	-	0.1	0.3	0.1	0.1	0.1	0.3
The Pacific	0.2	0.6	0.2	0.1	0.3	0.3	0.3	-	-	-	-	0.1	0.1	0.0
Developing Europe	0.2	0.5	1.1	1.7	1.6	2.7	2.0	-	-	0.1	0.2	0.1	0.1	0.1
Central and Eastern Europe	3.4	14.3	12.7	19.2	21.0	23.2	25.4	0.1	0.5	1.0	3.4	2.1	2.1	4.0
World	200.1	331.1	384.9	477.9	692.5	1 075.0	1 270.8	228.3	355.3	391.6	466.0	711.9	1 005.8	1 149.9

Source: UNCTAD. "World Investment Report: Promoting Linkages." New York and Geneva: United Nations, 2001.

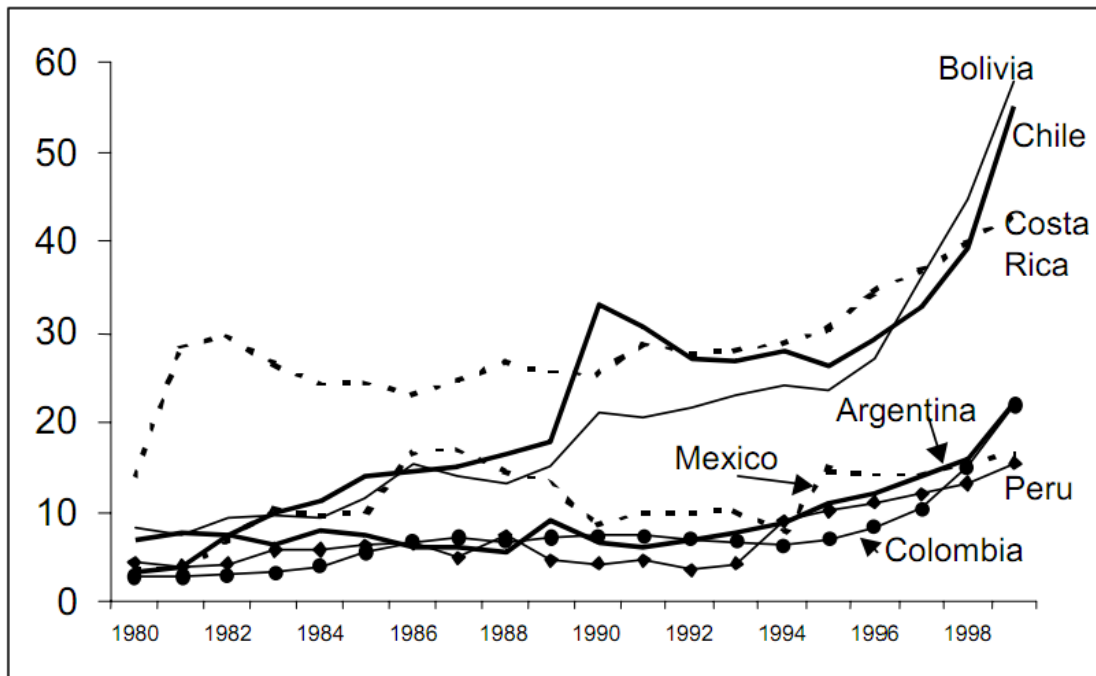


Figure 2.2: FDI in Latin America (stocks as % of GDP)
Source: Velde (2003, 18).



Figure 2.3: Global investment flows by world region
Source: Bridge (2004, 412)

Latin American countries began to perceive political parties as being controlled by elites and ineffective in providing for their basic needs (Vanden 2008, 43).

While these trade agreements were proliferating across Latin America, many countries were reviewing and redrafting their mining codes (MICLA 2007, 6). These laws generally favour the rights of companies over those of local residents, and the reformed mining code generally reflected many principles of neoliberal globalisation. By 1996, most Latin American countries had incorporated provisions in their mining codes that allowed companies to obtain exclusive rights to explore, mine, develop, refine and transport the mineral resources within concession areas (Oriheula 1996). Rights to subsoil resources, even if those resources are found in areas with other titles, ultimately remain with national governments (MICLA 2007), but can be explored or exploited by corporations and individuals.

During the 1990s, there was a marked shift in investment in the mining industries of countries such as the United States, Canada, Australia and South Africa – places with histories of mineral exploration and development – to countries in developing regions, and, in particular, countries in Latin America. Latin America has been the top destination for mining exploration for the previous two decades (Metals Economic Group 2011). The early 2000s saw an upsurge in the investment and development of mining projects in Latin America, related to the increased global demand and prices for minerals (Bridge 2004). Metal consumption in countries with rapidly expanding economies, such as China and India, have been driving a global demand for metals (The World Bank 2011; Bebbington *et al.* 2008).

2.2.2 Twenty-first century dynamics of global capitalism and extraction

The early 2000s saw the expansion of free trade agreements between Canada and the U.S., and countries in Central and South America, furthering the ability of foreign multinational corporations to access the economies and natural resources of Latin American countries. The characteristics of this foreign investment has also changed since the 1980s and 1990s; as Gordon and Webber (2008, 67) note “in the age of neoliberal globalisation FDI has increasingly involved fixed investments in factories, mines, natural resources, communication systems and services, whereas previously foreign investment was more liquid in nature.”

Indicating foreign interests in Latin America, a proposed Free Trade Area of the Americas (FTAA), which has yet to become an international agreement, was pursued by Canada

in particular and would have removed or reduced trade barriers between all countries in the Americas (Daudelin 2003; Gordon and Webber 2008). A significant amount of foreign investment in the past ten years has been in extractive industries, investments which have increasingly come from transnational corporations (UNCTAD 2007, xxi – xxvii). More precisely, Latin America as a region has received between 22 to 28% of the worldwide mineral exploration market, varying per annum, between 2000 and 2010, making it the primary destination for this market since 1994 (Metals Economics Group, 2010). While the global economic crisis towards the end of the decade meant a decline in FDI into Latin American countries, FDI flows returned to pre-recession levels in 2010 (ECLAC 2010).

Today, Latin America accounts for a significant portion of the worldwide production of many desired metals, including copper, silver, molybdenum, bauxite, refined copper, alumina, zinc, iron, nickel and gold (USGS 2009a, 2).¹ The majority of current mining companies are Canadian; approximately 60% of all mining companies in the world are registered on the Toronto Stock Exchange (The Mining Association of Canada 2010). Australia and London follow as the stock exchanges with the second and third most registered mining companies. About 10% of yearly Canadian direct investment abroad was in the minerals and metals sector (The Mining Association of Canada 2010, 68). Latin America is listed as one of two primary geographical destinations for this investment, the United States being the other (The Mining Association of Canada 2010). Between 2010 and 2019, mining investment in Latin America is predicted to total around two hundred billion dollars U.S. (Guajardo 2011, 2).

2.3 The Impacts of mining on indigenous people

The ways in which large-scale mining projects and mining activities in general affect indigenous peoples has been studied in detail (O’Faircheallaigh 1998; Howitt 2001; Evans *et al.* 2001; Bridge 2004; Gedricks 2001). The impacts of mining on indigenous peoples can also include any of this non-exhaustive list: violent conflicts, environmental damage, (due to a lack of enforced regulation), reduced livelihoods (especially traditional livelihoods), forced migration or

¹“In terms of global rankings for 2009, Chile was the world’s leading producer of copper followed by Peru, and the combined production from the two countries accounted for about 42% of the world total. Peru was the leading producer of silver, and the combined production of silver from Canada, Chile, Mexico, and Peru accounted for about 46% of the world total. Brazil and Canada were the first and second ranked producers in the world, respectively, of niobium, and the two countries accounted for 99% of the world total. Bolivia and Mexico were the second ranked producers of antimony and bismuth, respectively.” (USGS 2009a, 2).

displacement, and ethnocide (Castro and Nielsen 2001; Hitchcock 1994; Bebbington *et al.* 2008; Gerard Clarke 2001). Two dominant themes emerge in the literature: that mining activities can often create social conflict, and, in terms of indigenous rights, undermines indigenous land and cultural rights by failing to consult with them or to engage in good practices of free, prior and informed consent. A recent report on Corporate Social Responsibility violations within the mining industry concluded that the most common violation – 62% of all cases – was related to community conflict, the second being environmental violations (The Canadian Centre for the Study of Resource Conflict 2009).

There is no international law by which foreign companies would be accountable for human rights abuses or environmental damages committed abroad. The countries where these activities occur themselves have mining codes and laws that often preference companies that extract these minerals over local communities and the environment. In face of mining activities, indigenous people are often more marginalized than other groups because of their political and legal status on a national level, and because of their unique connection to the environment via their cultures and livelihoods. This intersects with a lack of adequate land rights. In the words of indigenous activist Leonardo Viteri when speaking of Amazonian communities:

For indigenous peoples of the Amazon, territory, our ancestral lands, has multiple objectives and within it there are multiple things to defend. Land is not simply of use for economic betterment. It is fundamental to our right to develop our culture, our technology – our right to develop our agriculture, education, religion, social, and economic structure. Our form of land tenancy must be considered in a unique manner because having land, living in a territory, is not simply an economic venture. Our territory does not simply produce crops. It is the basis for our culture, our identity. (Sawyer 2004, 193).

2.4 A short retrospective on Latin American indigenous movements

2.4.1 Contemporary indigenous movements

The early formation of a transnational indigenous movement began in the 1960s and 1970s, with international forums, human rights law and international conventions that addressed the status of indigenous peoples worldwide (Warren and Jackson 2002). It was during the 1970s that the first major international indigenous organization – the World's Council of Indigenous People (WCIP), was formed. One of the main principles that drove and continues to drive indigenous movements globally was that of self-determination; i.e., that indigenous peoples have a right to determine their own realities, present and future, through political, economic and cultural

autonomy (Bodley 2008). The main issues confronting groups at the time were that of land rights and the activities of transnational companies (World Council of Indigenous Peoples 1981).

The 1980s saw greater mobilization in many factions of Latin American society. The shift from authoritarian to democratic regime types in many Latin American countries allowed for new opportunities of mobilization for various groups, including indigenous peoples (Postero and Zamosc 2004). Democratization also made it possible for certain types of organizations and groups to grow and proliferate, most notably nongovernmental organizations or NGOs, which addressed a variety of social and civilian concerns (Johnston and Almeida 2006). This was also a time of ‘ethnic revival’ among indigenous peoples, and there was also the emergence of NGOs who dealt specifically indigenous rights, for example the organization Cultural Survival. A primary goal of many indigenous groups was that of the affirmation of ethnic and tribal identities through a concerted effort to maintain their languages and cultures (Langer 2003).

The late 1980s saw the increasing internationalization of the indigenous rights movements, paralleled by a greater acceptance for the need to establish indigenous rights more formally. In 1989 the International Labour Organization adopted the C169 Indigenous and Tribal Peoples Convention. At the same time, there was growing opposition among groups to the Quincentenary celebrations of Columbus’s 1492 voyage to the Americas.

2.4.2. 1990s onward: formal recognition, increased internationalization

The early 1990s saw a continuation of the internationalized indigenous rights movement and the beginnings of formalized, codified recognition of these rights. An important date in framing contemporary indigenous movements is the Quincentenary of Columbus’s ‘discovery’ of the Americas, held in 1992. This was seen by some – mainly the Spanish government – as a reason to celebrate the benefits of European colonization. This positive position on the Conquest of the Americas was opposed by indigenous groups. They asserted that 1492 was a date to remember if only in that it marks the beginning of the devastation of indigenous nations (Langer 2003, xv). The celebrations to honour Columbus’ 1492 voyage were counteracted by international events and forums organized by indigenous leaders with the help of international NGOs. The year 1992 also marked the United Nations Convention on Environment and Development in Rio de Janeiro, Brazil, also known as the Rio Earth Summit. Days prior to this event, indigenous peoples from around the world met in Rio de Janeiro and held their own World Conference of Indigenous

Peoples on Territory, Environment and Development (Brooke 1992). At this forum, indigenous leaders passed the Kari-Oca Declaration and the Indigenous Peoples Earth Charter, a charter that addressed a wide range of issues, especially those related to indigenous self-determination, and control over land and resources (Drache 1999). It was also in 1992 that Rigoberta Mechú Tum won the Nobel peace prize for her role as a leader in indigenous resistance against military oppression in Guatemala and as an advocate for indigenous rights (The Nobel Foundation, 1992). In 1993 many of the ideas expressed at the Earth Summit in Rio were adopted in the first draft of the United Nation's Declaration on the Rights of Indigenous Peoples (United Nations, 2009).

It is important to note that the growing national and international strength of these organizations was aided by key technological innovations, namely the increased dispersal and use of telecommunication technologies (especially the internet) and the increased ease of travel (Langer 2003). These innovations contributed to the interconnectivity of different types of groups who shared a common goal of promoting and protecting indigenous human rights and interests, facilitating alliances between local, regional, national and international organizations. International NGOs, for example, have provided native leaders and movements with attention and publicity at the global scale, provided advice in organizing a movement and legal expertise, and funding to pursue lawsuits for issues related to, e.g., land claims (Langer 2003). International organizations such as ILO have been important in redefining the legal status of indigenous peoples. While not only a product of globalized and more accessible communication systems, connections to international organizations have allowed indigenous movements to broaden their scope and power.

Into the 21st century, there is a growing consensus that while democratization of many Latin American countries has meant the creation of a spaces for political action for citizens, there has also been a failure by states to provide basic security of necessities (Vanden 2008). This failure is perceived by many in Latin America as directly related to the neoliberal economic policies that were widely adopted in the 1990s. As Vanden (2008, 43-44) states “Indeed, in the eyes of most of the Latin American popular sectors, the structural adjustments and neoliberal reforms representing the Washington Consensus ... have threatened their security and well-being.” In the context of any indigenous movement, the resistance to neoliberal economic

policies intersects with desire to protect and preserve ethnic and identity based components of many indigenous movements.

2.4.3 Indigenous responses to mining activities

With the increase in investment in Latin America's extractive industry there has been an increase in social mobilization and conflicts related to resource extraction projects, particularly by indigenous peoples. The Indigenous People's Declaration on Extractive Industries, created in April of 2003 in response to the World Bank's extractive Industries Review Initiative, is an example of how indigenous peoples are responding to the negative impacts of the activities associated with those industries (Mander and Tauli-Corpuz 2006). Later that year indigenous leaders held a forum during the 5th WTO Ministerial Conference in Cancun, Mexico, and developed their own declaration detailing how extractive industries have affected their communities:

The increasing conflicts between transnational mining, gas and oil corporations and Indigenous Peoples ... and the militarization and environmental devastation in these communities due to the operations of these extractive industries. The facilitation of the entry of such corporations are made possible because of liberalization of investment laws pushed by the TRIMS (Trade-Related Investment Measures) Agreement and WB-IMF conditionalities, regional trade agreements like NAFTA and bilateral investment agreements. (Congreso Nacional Indígena, 2003).

As this Declaration indicates, indigenous peoples have experienced a contraction of their rights due to the impacts resulting from the liberalization of trade through international agreements and the imposition of structural adjustment policies from international financial institutions. This position has been repeated by numerous groups in various examinations of indigenous peoples and extractive industries.

These responses of opposition are not uncommon. Mining activities, in general, have been met with significant resistance (Gordon and Webber 2008). Opposing extractive activities and the commodification of natural resources – such as mineral resources – is a common theme among many popular movements affected by extractive industries. This is true in many instances of indigenous communities who oppose mining activities on or near their ancestral territories. Indigenous people's cultural and social connection to land means that resistance is often an expression of the right to self-determination. The tactics employed by indigenous peoples in resisting or opposing mining projects are varied, but may include one or more of the following:

road blockades, marches and protest, land takeovers, pressuring government officials to address their demands, pursuing lawsuits, electing their own local, regional or national representatives and involvement in national rebellions (e.g., Ecuador) (Langer 2003). Creating alliances with national or international NGOs can aid in pursuing some of these tactics, especially for the funding and legal expertise needed for lawsuits, for example.

2.5 Case studies: Guatemala, Panama, Colombia and Peru

For each case study, a timeline of major events can be found in Appendix B. A summary of the major features of each case is presented in Table 2.2.

2.5.1 Guatemala

Guatemala is a country with a predominantly indigenous population; approximately 60% of Guatemalans identify as indigenous (Imai 2007). The recent history of indigenous people in Guatemala is marred by a 36 year civil war that ended in 1996 with the signing of a peace accord between the state and guerrilla groups. During this time, indigenous Guatemalans were the targets of violence and acts of genocide (The Commission for the Historical Clarification 1999).²

Guatemala ratified ILO 169 as part of the 1996 Peace Accord. The Accord also included a section that specifically addressed indigenous rights, including a section on the Agreement on the Identity and Rights of Indigenous Peoples. This Agreement focuses on the cultural, civil, social, political and economic rights of indigenous people in Guatemala, which specific sections regarding customary law, rights to land and natural resources, and calls for the formal recognition of these rights by the state (Agreement on the Identity and Rights of Indigenous Peoples, Part IV F3, 1995).³ However, these reforms never materialized in terms of changes to the Constitution.⁴

² The UN-sponsored Historical Clarification Commission found that 83% of the victims of human rights violations committed during the civil war were Maya (The Commission for the Historical Clarification, 1999).

³ See Section IV: Civil, Political, Social and Economic Rights

⁴ Shortly after the signing of the Peace Accord, a process whereby proposals for constitutional reforms were drafted and approved by the Guatemalan Congress in October 1998 (see Sieder 2007). The adoption of this package of reforms was then voted on in May 1999, and while only 18% of the electorate voted, it was rejected. As Sieder (2007, 219) notes, “Elements of the private sector orchestrated a virulent campaign against formal recognition of indigenous rights, appealing to racist sentiments and raising fears that this would balkanize the country and encourage ‘reverse discrimination’ nonindigenous.”

Table 2.2: Summary information regarding case study conflicts in Guatemala, Panama, Colombia and Peru.

	Guatemala	Panama	Colombia	Peru
Signatory of ILO 169	Yes	No	Yes	Yes
UNDRIP	Yes	Yes	Yes	Yes
Total indigenous population; as % of country population	8,342,000; 66%	417,559; 12%	1,410,000; 2%	12,696,000; 47%
Primary indigenous group(s) (as a % of total indigenous population)	Maya (48.6%)	Ngöbe (62.2%), Kuna (19.3%)	Wayuu; Arhuacos	Quechua (25%), Aymara (3%)
Date of last reform to mining code; date of adoption of current mining code	1997; 2010 reforms pending approval	2002	2001; 2010 reform deemed unconstitutional	1963;
Mine name	Marlin mine	Cerro Colorado mine site	El Cerrejón mine	Santa Ana mine (<i>Puno</i>)
State-owned operating company	Montana Exploradora S.A.	Corporación de Desarrollo Minero Cerro Colorado (CODEMIN)	Carbones del Cerrejón Ltd.	n/a
Mine Location	Sipakapa and San Miguel Ixtahuacán , San Marcos Province	Cerro Colorado, Ngobe-Bugle <i>comarca</i> , Chiriqui province	Guajira Province	Chucuito Province, Puno Region
Parent Company	Goldcorp Inc.	n/a	Consortium: BHP Billiton; Xtrata; Anglo America plc	Bear Creek Mining Corporation
Country parent company registered	Canada	Panama	Australia, Switzerland; United Kingdom	Canada
Legislation protesting against		Law 8		Presidential decrees
Rights violation	Indigenous rights to consultation; human rights	Indigenous rights to consultation; human rights	Forced relocation;	Indigenous rights to consultation
Other	Health and environmental concerns		Health and environmental concerns	Land rights

Sources for statistics on population:
INEC (2010), Van Cott (2007), DANE (2005), Berge (2010).

Mining Code

Reformed in 1997, the Guatemalan mining code stipulates that the State owns all subsoil resources and maintains the right to use and exploit them “in the manner most beneficial to the nation” (Ministry of Energy and Mines 2001, 1). It contains no reference to indigenous peoples rights or a requirement to consult with communities. In general, it creates incentives for investment in this industry, as companies pay only 1% total in royalties (Urkidi 2011). However, it offers little in terms of protection for land owners or local communities. A bill proposed in June 2010, which would increase environmental regulations, raise royalties and require that consultation be held with local communities prior to granting mining rights, has yet to be approved in the Guatemalan Congress (Business News America staff reporters 2010).

Description of Conflict

My conflict case study is that of the Marlin mine in the San Marcos province, located in Western Guatemala. It is operated by the nationally owned by Montana Exploradora de Guatemala, S.A (Montana) Montana Exploradora and a subsidiary of the Vancouver-based Goldcorp Inc.⁵ The mine concession encompass two municipalities: San Ixtahuacan and Sipakapa. The main point of contentions are allegations of the lack of consultation and consent with indigenous communities prior to the granting of the concession and exploration of the mine site, concerns over water contamination, and a failure to ensure human rights (Imai 2007; Urkidi 2011; Sieder 2007).⁶

2.5.2 Panama

Indigenous peoples are a minority in Panama, representing 10% of the country’s total population. They have generally been afforded autonomy over their own affairs through the *comarca* system. In 1997, the Ngöbe *comarca* was created, a process that also meant Ngöbe collective land rights were recognized in the constitution (Young and Bort 1999). While politically and administratively autonomous, the right to resources, including sub-soil resources, on *comarca* lands is retained by the state (Wickstrom 2001). Indigenous rights have, however, been diminished over the past ten years, with the introduction of laws that eliminate articles or negate

⁵ The Marlin mine is Goldcorp’s second most profitable operation (Mandhane 2011).

⁶ This conflict is one that is increasingly marked by violence, with both anti-mining activists and Montana employees receiving threats and being attacked (*Empresa Montana Denuncia Atentados Contra Trabajadores De La Mina Marlin*, 2008)

previous legislation guaranteeing the right to consultation regarding natural resource development on indigenous territories (Simms and Moolji, 2011).

Mining Code

The Panamanian constitution indicates that mineral deposits are property of the State. The Martinelli government recently tried to reform the mining code of 1963 [Law 109] with the introduction of Law 8 in 2011; the president then repealed it in March 2011 after indigenous Ngöbe mobilized against the government (Simms and Moolji, 2011). Law 8 would have allowed for state owned companies to directly invest in Panamanian mining concessions and increased royalties from 2 to 5% (Comisión Comercio y Asuntos Economicos 2011).

Description of Conflict

The particular conflict and focus in this case study revolves around the Cerro Colorado mine site, located in the middle of the Panamanian cordillera and the Ngöbe-Bugle *comarca*. This copper deposit has been of commercial interest twice in the past, in the 1970s and 1990s, but both times the project was dropped. With the rising price of copper, several companies are looking to jointly exploit the deposit, spearheaded by Canadian firm Inmet. Perhaps not coincidentally, there have also been attempts to reform the Panamanian mining code, to facilitate foreign investment into Panamanian mining projects. This has been met by significant resistance by the Ngöbe-Bugle community, see Appendix A.

2.5.3 Colombia

According to the 2005 census, approximately 3.4% of the Colombian population identifies as indigenous (DANE 2005). Colombia is generally characterized as having a high commitment to the inclusion of indigenous peoples and the recognition of their rights (Van Cott 2007). Indigenous peoples have special rights as outlined in the Colombian 1991 Political Constitution, which recognizes customary law, political and administrative autonomy, and recognition of collective/communal property under the *resguardo* (reserve) system. According to the Government, indigenous *resguardos* occupy 29.8% of Colombia's territory (United Nations 2010). Article 330 of the Constitution maintains that "exploitation of natural resources in the indigenous territories will be done without impairing the cultural, social, and economic integrity

of the indigenous communities” (República de Colombia 1991). Colombia has ratified ILO Convention 169 as well as the UNDRIP.

Mining Code

Colombia’s mining industry is governed by the 2001 Mining Code stipulated in Law 685. It contains a chapter devoted to “Ethnic Groups”, and outlines indigenous rights when faced with a company seeking access and use of their land (Republica de Colombia - Gobierno Nacional 2001). The mining code echoes the Constitution, and stipulates that indigenous groups must be consulted with prior to prospecting or exploration activities (International Labour Office, 2004). However, the 2001 Mining Code has been criticized for being passed without first being presented to indigenous groups, which infringes on indigenous rights outlined in ILO 169.

Description of Conflict

The conflict I am examining involves the Cerrejón coal mine and nearby indigenous Wayúu communities. The mine, operated in Colombia by Carbones del Cerrejón Ltd. is located in the northern province of La Guajira. This province is one of the poorest, especially among the rural Wayúu indigenous population (Harker *et al.* 2008). The mine is the largest in Colombia, owned by a consortium of three transnational mining companies: BHP Billiton, Anglo American PLC and Xstrata Coal. From August 2001 through April 2002, the Wayúu community of Tabaco was allegedly demolished. For a full timeline of major events, see Appendix A.

2.5.4 Peru

Once suggested to be a country without indigenous people (Millones 1999), attempts to assimilate and obscure indigenous peoples in Peru have failed. Almost half of all Peruvian’s identify as indigenous, accounting for 47% of the total population (Van Cott, 2007). The 1993 Peruvian Constitution overturned earlier laws, such as the 1974 Native Communities Act, which provided much more protection for indigenous communal land.⁷ The most recent constitution contains few protections for indigenous rights, although one article does state the right to an “ethnic and cultural identity. The State acknowledges and protects the ethnic and cultural diversity of the Nation.” (Congress of the Republic 2006, 5). The 1995 Land Law also poses a

⁷ The 1993 Constitution removed, for example, provisions that stated indigenous territories were inalienable, unmortgageable and imprescribable (Gray 1997).

threat to indigenous territorial rights; this piece of legislation is aimed at privatizing community held land in Peru.⁸ Both the ILO Convention and the Peruvian Constitution grant indigenous peoples the right of consultation, participation, and decision in development projects affecting their wellbeing and territories. The relationship between indigenous groups and the State were severely strained under outgoing President Alan García. This was largely due to García's irreverent and patronizing attitude towards indigenous peoples (Santisteban 2011). He also enacted decrees and laws, for example decree N° 1090, approved in June 2008, that undermined what rights had been established nationally for indigenous communities (Hughes 2010).

Mining Code

The legal framework of Peru was reformed significantly in 1992 and 2002 to promote mining investment. These changes created significant incentives for mining companies to develop mineral resources in Peru, with the reduction of royalties and taxes, and increased ability to obtain mining rights (USGS 2009b). There is little protection for indigenous communities outlined in Peruvian policies regarding mining, save the ability/responsibility of two government bodies (General Directorate of Environmental Affairs and the Ministry of Energy and Mines) to address environmental problems and implement laws and regulations regarding the environment (USGS 2009b). The State retains rights to all subsoil resources.

Description of Conflict

The conflicts I am examining are two significant instances of anti-mining mobilization directed primarily towards the government and its actions. These were the 2009 Bagua massacre and preceding events, and the 2011 protests in the Puno province. The nature of these conflicts is more focused on government policies and practices rather than one specific project, although the protests in Puno did regard the Santa Ana mine, owned by Canadian company Bear Creek Mining, as a central point of contention.

⁸ Hughes (2010, 88): "One of the main threats to indigenous land rights is the requirement contained within the law that all uncultivated lands be made available for sale. This raised fears amongst indigenous communities that huge tracts of Amazon rainforest would be sold off to private investors."

CHAPTER 3: THEORETICAL FRAMWORK

3.1. Introduction

In this Chapter I develop a theoretical framework to guide my analyses of indigenous strategies and tactics in opposing or resisting mining activities in or near their territories. To establish this framework I examine two sets of theories. First, I discuss critiques of neoliberalism and globalization from a neo-Marxist and Marxist geographical perspective (3.2). Second, I present geographical approaches to understanding indigenous movements, focusing on the notion of ‘scale’ as an analytical tool (3.3). Finally, I establish how I will apply these theories, especially theories of scale, to my analysis of indigenous strategies and tactics in mobilising against mining activities (3.4). I outline the key over-arching ideas and arguments that inform my analysis in Chapters 4 and 5.

Geographers have contributed significantly to understandings of both social mobilisation and conflicts rooted in resource extraction, especially related to minerals of other resources (Gedricks 2001; Bebbington 2008; Nicholls 2007). At the most basic level, physical land is imbued with multiple meanings, and for some – i.e., indigenous groups – it can be a source of identity, livelihood and culture while also seen by other actors as a source of wealth, a commodity and often an important geopolitical resource (Mander and Tauli-Corpuz 2006). Marxist geographers have uncovered some of the ways actors with differing views interact; namely that ‘global capitalism’ engages in a new imperialism by dispossessing indigenous people of land and consequently identities, cultures and livelihoods (Harvey 2003; Gordon and Webber 2008).

Using perspectives rooted in geographic theory as the basis of critical examination is useful for understanding the different meanings of a conflict over land and resources that transcends scales (Bebbington, 2009). The concept of ‘scale’ is an analytical tool that is increasingly been used to understand ‘the geographies social movements’ (Nicholls 2007). This can also be applied to an examination of indigenous mobilisations against mining activities and the multi-scalar strategies communities engage and employ. Scaled analysis can illuminate the dynamics of these conflicts.

3.2. Critiques of neoliberalism and globalization

Scholars from many fields have critically examined resource extraction in Latin America and other parts of the world. As Galeano (1971) pointed out, access to mineral resources is intimately tied to protecting the national security of the United States. The U.S. is not the only nation that has an interest in extracting resources abroad; in the past two decades Canadian firms have taken on the dominant role in extracting minerals globally. Protecting the ability to access these increasingly rare resources through military and other (economic) means is a key national interest of state governments (Galeano 1971). This view is reiterated in a more general sense by Klare in his 2001 essay on the “new geographies of conflict”. He posits that many states view the control over certain natural resources as a requirement for national security, and stresses the importance of examining international relations through the “the lens of the world’s contested resources” (Klare 2001, 53). Mander and Taulli-Corpuz (2006) frame the need for resources broadly as a basic problem of economic globalization, its driving forces – corporations and bureaucracies – and its required infrastructure.

3.2.1: Understanding transnational mining through Marxist and neo-Marxist critiques

Marxist geographers have expanded concepts outlined by Karl Marx and applied them to the current situation in Latin America in order to understand the positions of, and relationships between, different actors, considering how they might be altered by activities related to mining. Gordon and Webber (2008) invoke geographer David Harvey’s concept of “accumulation by dispossession”, linking Marx’s theory of primitive accumulation to the “current condition of global capitalism” in what is ultimately a critique of neoliberalism as a new imperialism (Harvey 2003, 1). In this view, a new imperialism is pursued by world hegemonies (such as the U.S.) through neoliberal capitalist policies, policies that ultimately allow a small group to amass wealth by dispossessing others of resources and land. Capitalism, experiencing a chronic problem of overaccumulation of capital and a lack of opportunities to put that capital to use, pursued economic restructuring in the Global South, guided by neoliberal policies that encourage privatization and liberalization as a way of remedying this problem (Harvey 2003, 145-150). This restructuring has resulted in the ‘opening’ of economies in Latin America for investment (Gordon and Webber 2008, 66). Mining investment into new mining areas in many cases results in the dispossession of land and resources

[M]ining investment in most instances simply cannot proceed without a community – often indigenous – being dispossessed of their land, natural resources and livelihoods. Most new areas of mining investment in Latin America are on inhabited land, and even when these areas are not directly inhabited, communities nearby are commonly affected by the inevitable environmental repercussions of mining (Gordon and Webber 2008, 68).

The effects of dispossession are not solely economic but also cultural, as they often involve the suppression of alternative and indigenous forms of production and consumption (Harvey 2003, 146). These forms of production and consumption, which occur and happen on and in land, are cultural. The concept of cultural landscapes, an idea from geographical thought and theory, adds to the understanding of the effects of dispossession on indigenous cultures, as many indigenous ethnicities maintain a special connection to often specific lands. If the physical environment is “the medium with and through which human cultures act” (The Dictionary of Human Geography 2009, 133), then dispossession of that physical medium will have a cultural impact. As Bodley (2008, 7) discusses, indigenous people are unique in that they generally have a way of life that is organizationally small in scale; “[t]he real problem facing indigenous peoples is that their cultural heritage of community-level resource management, high levels of local self-sufficiency, and relative social equality is [sic] the antithesis of how the commercial world was developed and is currently organized.”

The impacts of dispossession are very political; a loss of control over one's territory, including a loss of economic control, results in an overall loss in autonomy (Bodley 2008, 10). States in Latin America have created favourable investment environments for companies wishing to extract resources, namely granting concessions and rights to mineral resources in areas that overlap with indigenous territory and sometimes lands that have been titled to certain groups (Postero and Zamora 2004, 23). The majority of the world's remaining resources – including mineral resources – are located in the territories of indigenous people (Moody 2007).

Proponents of neoliberalism might counter these criticisms using arguments from free market economics and the concept of ‘comparative advantage’; that a country rich in resources should export and exchange them for commodities that are difficult for it to produce as a development strategy. This and similar ideas are enshrined in international trade agreements like the General Agreement on Tariffs and Trade (GATT) and the Agreement on Trade Related Investment Measures (TRIMs) (World Trade Organization 1994; METI 2008). However, as Kuecker (2008) explains, this argument is based on the assumption that the ‘advantages’ that

each country is exchanging is of equal value. In his analysis of mining in Ecuador, he highlights that the comparative advantage of countries offering incentives and favourable terms to foreign investors is that they allow multinationals to externalize the costs of production by operating in ways that are often illegal in their own countries (Kuecker 2008). Those costs are the cost of dispossession through various forms.

3.2.2: Mobilization as a critique

This dispossession has been met with significant opposition. As Klare (2001, 53) notes: “[e]conomic globalization is turning some poor areas into centers of prosperity and growth but leaving other behind in abject poverty, sparking conflicts that have more to do with resources than nationalism.” These resources are bound in land, and out of these conflicts often come organized efforts or movements. An upsurge in social mobilization and conflict since the economic restructuring of the 1990s has been observed. The presence of these movements in Latin America is a symptom of the inequalities produced by globalized, privatized and liberalized capitalism; “[i]n the narrative of a current backlash against neoliberalism, events like these [popular mobilization in Bolivia around issues of privatization, gas, and indigenous rights] and recent periods of popular mobilization are seen as instances in “cycles” of resistance ... provoked by the dispossession inherent in neoliberalism” (Haarstad and Andersson 2009, 1). What neoliberal policies have produced is conflict, mobilization, and, at the base, what Sawyer (2004, 151) called ‘transgressive subjects’.

3.3. Geographical approaches to understanding indigenous movements: A focus on scale

Two concepts based in geographic theory – territoriality and scale – can be included in a framework that aims to understand conflicts and their outcomes between indigenous people and actors that take part in mining activities. Scale as an analytical tool is the foci of this section. The multi-scalar characteristic of these movements, and these movement’s conflicts, are both implicitly and explicitly highlighted in literature on this topic (della Porta and Tarrow 2005). Of key importance in understanding mining conflicts is to recognize their scaled nature and dynamics, and to use this integral concept of scale as an analytical tool in understanding indigenous oppositional strategies against mining activities.

3.3.1 Territoriality

In the context of mobilizations against mineral extraction projects, it is important to make note of more specifically why such activities would garner opposition. Anthony Bebbington *et al.* (2008, 2890), in an examination of the increased prevalence of social movements with the increase in extractive projects, suggests that:

Social mobilization can be understood as a response to the threats that particular forms of economic development present, or are perceived as presenting, to the security and integrity of livelihoods and to the ability of a population in a given territory to control what it views as its own resources.

Control over one's resources is a component of the principal of self-determination (United Nations 2009a), and one of the reasons indigenous movements of self-determination have grown in recent years (Yashar 2005). The position of indigenous people within their localities, their states and globally is being negotiated through challenges to projects intended to 'develop' the mineral resources found within their traditional or ancestral lands (Postero and Zamosc 2004). These struggles can be thought of as an exercise by indigenous peoples in territoriality, the act of exerting power over a physical space (Harvey 2000).

3.4. Scale as a tool of analysis

The concept of scale can be helpful in indigenous anti-mining movements and specifically indigenous strategies in opposing mining. The use of scale in the social sciences has been actively debated and theorized by geographers, and its meaning is highly contested (Moore, 2008; Howitt 2003; Swyngedouw 2004). Geographers are increasingly engaging with the literature on social movements, linking it with the concept of scale, using this it to explain the fundamental nature of social movements, activist networks, and strategies of social movements (Nicholls, 2007). In conceptualizing contentious politics, scale has been treated as relational, constructed, power laden and a contested construction that actors *strategically engage with*, in order to legitimise or *challenge* existing power relations (Leitner *et al.* 2008; Howitt 2003), and as the arena where struggles for control and empowerment are fought (Swyngedouw 2004).

In the last 15 years, academics have explored how social movements engage and use scalar strategies to advance their causes (Tarrow & McAdam 2005; Swengedouw 2004; Cox 1997; Skikkink 2005; Smith 1992). As Swyngedouw (2004, 26) states: "the success or effectiveness of social and political strategies for empowerment is related to the ways in which

geographical scale actively considered and mobilised in struggles for social, political or economic resistance or change”. In the emerging literature on conflicts surrounding extractive industries, some scholars are employing these theories of scale to examine contentious politics and opposition to the expanding mining industry (Bebbington *et al.* 2008; Bury 2007; Perreault, 2003).

The notion of scale is regarded in this research project as a relational and not unidirectional (Perreault 2003). Scale labels do not inherently represent a hierarchy of actors or processes (Harvey 2000). As well, I recognize using the local-global binary can be an oversimplistic understanding of these conflicts that transcend and manifest on different scales (Moore 2008). Thus the approach of this project to understanding opposition strategies of indigenous peoples is a multi-scalar approach. The explicit use of scaled analyses in understanding indigenous anti-mining movements is a relatively new application of this concept.

3.5. A multi-scalar approach to understanding indigenous opposition to mining activities

One of the examples used by Howitt (2003) in support for including scale as part of a critical geographic perspective is that of indigenous peoples and their movements for the recognition of their rights and influence on defining landscapes culturally. Using this example, he argues that “a critical geopolitics that engages with the scale politics of power, identity and sustainability offers dispossessed, marginalized, and disadvantaged peoples a better framework for political action across and between multiple scales” (Howitt 2003, 139). Identifying how different indigenous oppositional strategies engage with the politics of scale is useful in understanding the relationships between different actors. This is especially pertinent in examining contemporary indigenous opposition to mining activities, conflicts which are intrinsically **multi-scalar**. Some scholars tend to examine issues of indigenous struggles and movements as bounded by specific scales (Postero and Zamosc 2004). However, this can be confining as the important elements in specific cases are not only found within the context of a nation. Indeed, some scholars have used concepts of scale to analyze and understanding indigenous mobilisations against mining activities (Urkidi 2011; Perreault 2003).

Urkidi (2011), in her study of the anti-mining movements in Guatemala and its roots, focuses on community as the primary location of the movement’s demands. Perreault (2003) examined how indigenous communities constitute place as well as their connections to ‘broader-

scale organizations and processes' through multi-scalar networks. He also highlights the importance of multi-scalar analyses of these conflicts, asserting that “a central task for geographers concerned with the imbrication of different socio-spatial scales is to examine the formation and **functioning** of the multi-scalar networks within which local peoples and their organizations are embedded [emphasis added]” (Perreault 2003, 65). One way to examine how multi-scalar networks function for local communities is by studying how the multi-scalar networks that indigenous peoples are embedded in are utilized as components of strategies in the context of mobilisation against mining activities.

The use of multi-scalar strategies by indigenous communities is one of the ways these networks function. As iterated by Sikkink (2005), groups or movements can **engage strategies at one scale**, exploiting the political opportunities that exist there, **to create political opportunities** or openings for change at **other** scales. In this way, they can “overcome scale constraints and contest the power of capital” (Perreault 2003, 65).

There is a need to engage a comparative analysis of contemporary anti-mining strategies in Latin America from a scaled perspective, in order to understand the ways indigenous people mobilize at multiple scales. A comparative analysis that also considers not only strategies used at an international scale but also local and regional scales would help elucidate the nature of these strategies. This is the guiding geographical theory used to analyse indigenous anti-mining strategies.

My argument, then, is the following: mining conflicts encompass different social actors and processes that operate and manifest at different scales, which have evolved up to the present, extending their scope, networks and influence over space. Different strategies and tactics are employed by indigenous communities in four cases to oppose mining activities and to defend their rights. The main types of strategies employed are **direct actions**, and **third party reviews** and **complaint processes**. These strategies are **multi-scalar**, and are used to activate and exploit opportunities at other scales.

CHAPTER 4: DIRECT ACTIONS AS STRATEGIES

4.1. Introduction

Direct action refers to the undertaking of activities, such as demonstrations and protest, in attempts to solve problems that cannot be mitigated through normal or customary social and political channels. In the case studies observed, direct action is a strategy used by indigenous communities for multiple reasons. It is used as a way to force the engagement of other parties, namely their government or the company directing the mine, into negotiation regarding points of contention. Direct actions are also pursued in order to voice dissent, incite others into action, and as a way to bring more attention to a conflict. In the case studies included in this analysis, direct action was a strategy pursued in all cases. The main forms of direct action pursued by the indigenous communities in each of the case studies were road blockades and public demonstrations, property destruction and attendance at corporate annual general meetings.

In this Chapter, I focus on my **first key finding**: indigenous communities and allies **use direct actions** as a multi-scalar strategies that creates, or attempts to create, **and exploit, or attempts to exploit**, political opportunities at other scales. This is done to oppose mining activities that threaten indigenous rights. The chapter is structured by the type of direct action employed: blockades and public demonstrations (4.2), civil disobedience and property destruction (4.3), and attendance at corporate annual general meetings (4.4). In my analysis, I discuss how direct action strategies are multi-scalar strategies in that they create, or attempt to create, political opportunities at other scales.

4.2. Blockades and public demonstrations

Popular forms of direct action employed by indigenous groups were road blockades and public protest at significant sites. These actions were often associated with violence, namely between protesters and state security forces or privately employed security personnel. This strategy was often used to force negotiation or talks between indigenous communities and other actors they saw as supporting or executing mining activities in a way that disregards their rights. These other actors are usually government officials and mining company employees.

Direct actions can be premeditated (formal) or spontaneous (informal) acts. In these cases, road blockades represent important forms of direct action in Guatemala, Panama and Peru. These blockades usually last for significant periods, and often multiple weeks. The strategies of

using direct actions create and exploit political opportunities at other scales, for example forcing other parties into negotiation or dialogue.

4.2.1. Guatemala

Residents mobilized in February 2004 when they noticed unrecognized individuals marking area forests with flags by submitting a formal complaint to local authorities (Espinoza 2004). This was followed later that year by a 40 day road blockade of the Pan-American Highway at the village of Los Encuentros, the provincial capital of the Sololá province (Imai 2007). The road blockade commenced as a protest by residents who wanted to prevent this equipment from reaching the mine site. They were demanding that the government negotiate with indigenous groups regarding existing concessions in the province of Sololá (Castagnino, 2006). The Guatemalan government did not engage in negotiations with the protestors but instead ordered police officers to disassemble the blockade. This action only further increased the support for the blockade by other residents, with about 2000 people gathering in the area to reinforce it (Castagnino, 2006). Further proposals for dialogue with the government were again demanded, but officials responded by sending 1300 National Civil Police officers and 300 soldiers to the area (International Labour Office 2007). A clash between residents and security forces ensued, resulting in injuries on both sides and the death of a resident. The blockade ended, and no negotiations between parties were undertaken.

Another major use of direct action, in this instance, a large demonstration, was staged May 22, 2009 by indigenous Mayans from San Miguel Ixtahuacan and Sipakapa in Guatemala City, the same day as Goldcorp Inc.'s annual general meeting (Rodriguez 2009). The demonstration passed through Guatemala's financial district, the headquarters of Montana Exploradora, and to the Canadian Embassy. The embassy received a four-person delegation led by ADISMI (Association for the Integral Development of San Miguel Ixtahuacan) leader Javier de Leon, and listened to their complaints regarding a lack of consultation, the alleged contamination of natural resources upon which they depend for their livelihoods, the threats activists had received, and the social divisions that the project has created in their communities. Canada's ambassador merely stated that Canadian companies respect human rights, and that communities had been consulted. In an interview with community leader Gregoria Pérez, she states that "We were able to meet only with the Canadian ambassador. From what I understood,

they claim that our people were consulted and had asked if we, Maya Mam people, accepted the mining operations in our territory. But the truth is they never consulted us” (Rodríguez 2009, 17).

4.2.2. Peru

The two major instances of indigenous direct action that garnered significant international coverage are the 2009 Bagua massacre and the protests in Puno in 2011. Both of these entailed violent confrontations between government security forces and indigenous protestors. Both events occurred while Alan García was serving as president.

2009 Bagua Massacre and preceding events

From March to June 2008, then President Alan Gracia passed a series of decrees⁹ in order to open up the Amazon to private investment, including private investment in mining projects (United Nations 2009b). These decrees were seen by indigenous peoples as a threat to their rights.¹⁰ Over the course of approximately a year, from August 2008 to April 2009, indigenous groups attempted to negotiate the repeal of these decrees. As one of their strategies to meet this end, indigenous groups staged a road blockade in August 2008, demanding that the government repeal the decrees and comply with ILO 169 (Howden 2008). In response, the government agreed to negotiate with several of the striking groups. The result of those negotiations was a Memorandum of Understanding was signed between representatives for indigenous Amazonians and the President of the Peruvian Congress (United Nations 2009b). This led to the appeal of two of the decrees, N° 1015 and 1073, and the formation of a multi-party commission to “study and recommend solutions to the problems of indigenous peoples, with the participation of their representatives” (United Nations 2009b, 7). The main recommendation put forth in a December 2008 final report was that ten of the decrees should be repealed or modified as they violated provisions of the Peruvian constitution outlining indigenous rights and violated Peru’s obligations under ILO 169 (Comisión Multipartidaria Encargada de Estudiar y Recomendar la Solución a la Problemática de los Pueblos Indígenas 2008).

⁹ The main decrees of contention were decrees N° 994, 1064, 1020, 1080, 1081, 1089, 1090, 1083, 1060, and 995 (Comisión Multipartidaria Encargada de Estudiar y Recomendar la Solución a la Problemática de los Pueblos Indígenas 2008)

¹⁰ For example one decree, N° 1015, would have changed how community lands were sold to non-indigenous outsiders, requiring only 50.1% rather than 75% of community votes (Huges, 2010).

In April 2009, AIDSEP (National Organization of Amazonian Indigenous People of Peru) declared a national strike, in response to what they called a lack of commitment on the part of the government to meet their claims regarding other decrees that had been deemed by the multi-party committee to violate their rights (Democracy Now 2009). Road and river blockades figured as the dominant forms of protest used by Amazonian indigenous peoples during this strike. One of these blockades was enacted at a point along the Belaunde Terry Highway near the town of Bagua. Over the next two months, the conflict escalated. The government declared a state of emergency in areas affected by the strike (Survival International 2009), publicly uttered ethnic slurs when speaking of indigenous peoples, and the leader of AIDSEP Alberto Pizango was accused by a government minister of conspiracy and sedition. In May, Pizango responded to the government imposed state of emergency by declaring that indigenous communities had a 'right to insurgency' if provoked (Peruvian Times 2009). This was retracted "after negotiations took place between indigenous leaders and the Public Ombudsman Office at the end of which Pizango committed to seeing a legal solution to the conflict" (Hughes 2010, 89). During this time, the number of people at the blockade site in Bagua grew to 5000 (Briceno, 2009). This show of support coincided with the Fourth Continental Summit of the Indigenous Peoples of the Americas in Puno, where Bolivian president Evo Morales, himself an indigenous leader, sent a letter to the summit "urging indigenous peoples across Latin America to go from 'resistance to rebellion and from rebellion to revolution,'" (Hughes 2010, 89).

On May 19, one of the decrees, N°1090, was declared unconstitutional by the multi-party congressional commission and scheduled to be debated in Congress on June 4th, 2009 (Peruvian Times 2009b). This attempt to repeal Decree N° 1090 was stymied, via a motion filed by a member of García's government to suspend the congressional debate. The next day marks the events now referred to as the "Bagua Massacre". Police forces were sent break up the roadblock, which at that point had lasted 50 days, and a violent confrontation ensued. The number of indigenous protestors killed varies depending on the news source consulted; official records indicate that five civilians, five indigenous people and twenty-four police officers were killed in this confrontation (Hughes 2010). Approximately 200 people had been injured. There were also allegations that upwards of fifty indigenous protestors were killed, but that their bodies had been secretly disposed of by the police (Mines and Communities 2009).

This event elicited a national and international response. Thousands of trade unionists, highland *campesinos* and students demonstrated in solidarity with AIDSEP four days after the Bagua massacre (Hughes 2010). The Nicaraguan government also extended their support to Pizango, granting him asylum after he was accused of sedition and for allegedly inciting violence (Democracy Now, 2009). The Peruvian government ultimately repealed the contested decrees, after engaging in talks with indigenous leaders (Páez 2009). Prime Minister Yelunde Simon and the Minister for Women's Affairs and Social Development, Carmen Vildoso, both resigned, the former on the accord of failing to reach a peaceful resolution and the latter in protest.

Puno demonstrations and road blockade 2011

A second use of direct action in Peru by indigenous peoples mobilizing against mining activities was seen at the Puno demonstrations and road blockades of May 2011. Approximately one year after President García blocked legislation that would have required mining companies to consult with indigenous peoples prior to developing those projects, the Aymara people in the Puno region began demonstrating to protest the granting of mining concessions in indigenous territories without prior consultation with local indigenous peoples. In particular, these demonstrations focused on the concession granted by the Peruvian government to the Canadian company Bear Creek Mining for the Santa Ana silver project (BBC News 2011). This large protest was preceded by a smaller 48-hour civil strike organized by the primarily Aymaran Frente de Defensa de los Recursos Naturales de la Zona Sur de Puno (Aymara Natural Resources Defense Front of the Southern Zone of Puno) that resulted in the death of one person after the National Police fired on protestors on April 26th (La República, 2011).

Two weeks later, a much larger demonstration organized primarily by the (predominantly Aymaran) Defence Front and the (predominantly Quechuan) CONAMI (National Confederation of Peruvian Communities Affected by Mining) (Berge 2010). It started on May 9th, and grew to involve upwards of 10,000 protestors. This mobilization included a three week road blockade between Peru and Bolivia. The blockade was extensive, covering 300 kilometres of highway with large rocks and boulders reinforced by manned blockades every couple of kilometres (Al Jazeera 2011). It stranded 300 tourists and halted border activities, and one estimate placed the financial cost of this protest in terms of lost tourist activity and damages at \$117 million (Al Jazeera 2011; Andean Air Mail & Peruvian Times 2011). Protestors brought activities in the city

of Puno to a standstill, also blocking the road to Juliaca, the town with the nearest airport. With their demands being unmet, tensions escalated in the town and some protestors broke into government buildings and set fire to a customs warehouse. With the city held captive, protest leaders even threatened to inhibit people's ability to vote in the June 5th national election (BBC News 2011b).

The protests ended with violence; on the 25th of June, five protesters were killed in clashes with riot police, after protesters allegedly attempted to storm the airport twice (Mines and Communities 2011b). The following day, after 50 days of protest, the Peruvian government conceded to the protestors' demands, revoking Bear Creek's licence to open the Santa Ana mine and the approval of any new mining concessions in the Puno province for the following 36 months (Bouw 2011).

4.2.3. Panama

February 2011 saw President Martinelli's second major attempt at reforming the 1963 Mining Code, and the passing of the Law 8, which was met with the direct actions of road blockades and demonstrations by the Ngöbe-Bugle indigenous community. Prior to the passing of the bill, numerous national and provincial environmental, civic and other organisations made a public statement regarding how Law 8 was problematic; it would contradict the constitution by allowing foreign companies to invest directly in mining concessions and facilitate the exploitation of the Cerro Colorado (La Prensa 2010). Indigenous communities were equally concerned that the start of mining activities at the Cerro Colorado mine site would mean forced evictions and environmental damage. The law was approved by Panama's National Assembly on February 11th, 2011 (Comisión Comercio y Asuntos Economicos 2011). Shortly afterwards, multiple thousands of Ngöbes descended into the town of San Felix, blocking the Pan American highway, marking the beginning of a month long campaign of demonstrations, marches and blockades in opposition to these changes to the mining law. By February 16th, the number of indigenous protestors grew to an estimated 10,000 people (Holtby, 2011). Demonstrations by students, workers, leaders of civil organizations and other activists occurred in Panama City, set to coincide with those in San Felix. While these protests included road blockades, they were often for only segments of days and not for consecutive days. These protests lasted for three and a half weeks, ending with a final four day road block of the Pan American highway. President

Martinelli's conceded to indigenous demands and announced that he would repeal the controversial Law 8. He also stated that mining would not be allowed in indigenous territories in the future (BBC News 2011a). In March, the law was repealed (Serracín 2011). Later that year, in October 2011, the Panamanian National Assembly began once again to debate changes to the Mining Code, outlined in the proposed Law 394. A demonstration was staged once again by the Ngöbe-Bugle community, outside of the National Assembly. This led to the re-opening of negotiations over proposed changes to the mining code (Getzalette, 2011). This latest attempt to reform Panama's mining law will resume in January of 2012.

4.3. Civil Disobedience: Property destruction

The destruction of property as a direct action of protest is another strategy pursued by indigenous communities. In Guatemala, there have been instances where equipment owned by Goldcorp Inc. has been purposely damaged. In June 2008, individuals from the community of Agel, a community in close proximity to the mine, tampered with the power line providing electricity to the mine site. Eight local women, including grassroots leader Gregoria Crisanta Pérez, have been accused by Goldcorp as being the perpetrators, and local courts subsequently issued arrest orders for these eight women (Rodriguez 2009). In 2009, hundreds of residents set fire to equipment at the Marlin mine (On Common Ground Consultants Inc. 2010). The Mayan villagers destroyed company equipment in this way as a response to Goldcorp's activities, claiming that the expansion of the mine constituted trespassing onto land they say is theirs. During the Puno, Peru demonstration and road blockade of 2011, government buildings were destroyed, as well as a warehouse containing 20 cars (Andean Air Mail & Peruvian Times 2011). This destruction was part of a larger act of protest and mobilization.

4.4. Attendance at corporate Annual General Meetings

The attendance of community representatives at corporate annual general meetings (AGMs) is used as a way to inform shareholders of the existence and circumstances surrounding these conflicts, and invoke a sense of responsibility to investigate claims made by these representatives. This is a strategy used to inform individuals who technically own these companies of some of the ways indigenous communities have been affected by mine activities, and incite them to act, creating opportunities in an international forum. Sometimes they are

organized as a stop on a speaking tour of representatives for the mine affected communities, and thus utilize transnational networks of allied individuals and groups. While limited strategies, often company executives will briefly and informally meet with community representatives at after these meetings.

4.4.1 Mayan representatives at AGMs

In the case Goldcorp's Marlin mine in Guatemala, there have been three instances where community representatives or individuals acting on the behalf of communities have appealed to investors and shareholders at corporate annual general meetings. The first of such instances occurred in 2006 less than a year after operations began at the Marlin mine. The statements read at those meetings echo a sentiment that underpins many of the decisions to pursue direct action strategy in conflicts concerning mineral extraction: "In response to this very real situation that we face every day in our communities, we have attempted to make our voices heard by every means possible. As all doors have been closed in our faces, as affected communities we have been forced to resort to community-initiated decision-making processes and direct actions" (MiningWatch Canada 2006). In 2010, representatives and community leaders attended Goldcorp's AGM to express their concerns, once again, regarding a lack of consultation and the negative health impacts of the mine on surrounding towns and residents (Owram 2010). In 2011, Benito Morales, a human rights lawyer from the Rigoberta Menchú Tum Foundation, an institution dedicated to the pursuit of peace, appealed to shareholders regarding the social and human rights impacts of the mine:

The presence of the Marlin mine is ripping apart the social fabric in communities of San Miguel Ixtahuacan... Families and neighbours are fighting among themselves and an environment exists in which people cannot safely defend their rights because they fear reprisals and lack effective access to the justice system... The justice system is completely co-opted by the interests of national elite and multinational companies like Goldcorp... As a result, respect of indigenous rights is not guaranteed within the current system. (Mines and Communities 2011a).

Beyond describing the impacts of the mine on local communities, this direct address to shareholders highlight what activists maintain are investors' contribution to 'ethnocide.'

4.4.2 The Wayúu and allied agents at AGMs

Colombian Wayúu communities have been active in soliciting shareholders at AGMs. Shortly after the destruction of the town of Tabaco as a result of mining activities, a founder of community group Yanama and Tabaco's lawyer Armando Pérez Araujo attended an Exxon (former owner of El Cerrejón) shareholders' meeting to present community testimony regarding the forced eviction of indigenous peoples for mine activities in Colombia (Solly 2011). At the 2003 Anglo American AGM, two community allies, one individual from a religious congregation and one from the UK-based Colombia Solidarity Campaign, questioned why the Cerrejón Coal Company had not complied with a Supreme Court ruling regarding relocation and the role Anglo American's involvement in the development of Colombia's new mining code (Colombia Solidarity Campaign, 2003).

Even though an agreement had been made between the displaced indigenous community of Tabaco and the Cerrejón Coal Company in December 2008, Wayúu community leaders returned to voice dissent at BHP Billiton AGMs in 2009 and 2011 regarding unresolved conflicts with other communities. In 2009, a Wayúu representative spoke at the AGM, with the support of Afrocolombian community activists and shareholders including the London-based group London Mining Network (London Mining Network 2009). An "Alternative Annual Report 2009" was distributed to shareholders to detail the ways in which BHP Billiton's policy regarding human rights in its projects has not translated into practice (Roberts-Davis *et al.* 2009). In 2011, the President of the Federation of Communities Affected and Displaced by Mining Exploitation in La Guajira (FECODEMIGUA) addressed shareholders regarding the destruction of indigenous communities prior BHP Billiton's purchase of the mine; "BHP Billiton has not accepted responsibility for the disappearance of these communities, but it ought to do so, because it has acquired the rights and benefits generated by this business and with it the responsibility for past and future activities" (London Mining Network 2011).

4.5. Use of direct actions as multi-scalar strategies

Engaging direct action activities can be an effective strategy and tactic used by indigenous communities to create opportunities at other scales. It is especially useful for gaining short term concessions from other parties, especially in the case of road blockades and public demonstrations. As shown in Peru, these short term gains can become long term protection for

indigenous rights. In these cases, direct action was most effective at creating opportunities at different scales for indigenous people in the cases where exploitation activities have yet to begin. These two methods of direct action can illicit responses from national governments, and governments often concede, at least in the short term, to the demands of protestors.

4.5.1 Road blockades and demonstrations

In 2009, Peruvian indigenous communities' demands were met, after a violent clash between protestors blocking the highway and security forces in Bagua. Shortly after the massacre, non-indigenous groups demonstrated in solidarity [with indigenous protesters], and Ollanta Humala, political leader of the official opposition party, the Peruvian National Party (PNP), was critical of Alan García's handling of indigenous protest stating that "through his 'intransigence and arrogance', Alan García was becoming a 'national security problem'" (Hughes 2010, 89). García made a public speech recognizing that his government had made a serious mistake in not consulting with indigenous leaders prior to issuing the decrees (Radio Programas del Perú 2009). Then, on June 18th, Peru's Congress voted to repeal decrees 1090 and 1064. While enacted on a local/regional scale, the end result of using the direct action strategy of a road blockade, and the ensuing violent confrontation, was the creation of attention, criticism and political pressure on multiple scales. Months of negotiation were not nearly as effective in creating an opportunity to protect indigenous rights. The political pressure created by the national and international reactions to the Bagua massacre called into question the legitimacy of García's actions. An opportunity was created whereby García engaged in negotiations with indigenous peoples, and this opportunity was exploited by them given the recent Bagua massacre to overturn the presidential decrees.

The other locally and regionally situated use of direct action in Peru, the protests and road blockade in the city of Puno, occurred throughout the 2011 presidential election and election campaign. Similar to the unravelling of events in Bagua in 2009, the Peruvian government conceded to the demands of local communities. Thus once again, a strategy that transcended scale was used to create and exploit political opportunities. The impacts of roadblocks themselves are national and international in scope; by strategically locating the roadblock on a major thoroughfare connecting Bolivia and Peru, the blockaders restricted the flow of goods between two countries. The timing of this use of direct action may have been able to fully exploit

a longer term national scale opportunity to ensure indigenous rights via the concurrently occurring election. Although one cannot attribute the election of Otalla Humala to indigenous protests surrounding resource extraction, President García's presidential term was marred by a general increase in social conflict, notably those related to mining activities (Defensorí del Pueblo del Perú 2011). His political opponent Humala was openly opposed García's handling of these conflicts (Hughes, 2010). The timing of this specific demonstration, which garnered international attention, may have played a factor in the election, especially given that there is no indigenous political party in Peru. After Humala's election in 2011, one of the first pieces of legislation passed and approved was a law formalizing Peru's commitment to ILO 169 and the rights of indigenous communities to consultation regarding mining and other extractive activities on their lands.

In Panama, road blockades and demonstrations along the Pan-American Highway, in San Felix and in Panama City created an opportunity for negotiation regarding Law 8 between indigenous people and the government at a national scale. After meeting with Ngöbe representatives, President Martinelli committed to repealing Law 8 (which transpired in March 2011), and also made a public statement that mining concessions in indigenous territories would not be exploited in the future (BBC News 2011a). A forum for future negotiations was also established between the government and indigenous Ngöbe.

Road blockades, in general, are effective because the infrastructure in these countries, especially in mountainous regions, is limited; when blocking a road, a group can very directly and quickly disrupt the movement of people and goods across and between countries. However, the initial responses to this strategy from the state often involves violent confrontation when security forces are dispatched to break apart road blockades, and there are high risks associated with engaging in this kind of direct action. For both of these reasons, road blockades can garner much national and international attention, creating visibility and criticism at those scales. Sometimes, however, this strategy was not as successful at creating those desired opportunities. The Guatemalan road blockade in 2004/2005 in Sololá would exemplify an instance where direct action did not lead to talks, negotiations or concessions from other parties, even though that was the initial reason for engaging in a direct action activities.

4.5.2 Civil disobedience: property destruction

In these cases, acts of destroying property were not effective as a strategy for creating or exploiting opportunities at other scales, except in the case of Puno when combined with other types of direct action. However, they are also symbolically important for the individuals and communities that engage in this type of direct action, as they are expressions of control over territory, or at the very least attempts to exert some kind of control.

4.5.3. Attendance at corporate Annual General Meetings

The use of direct action in cases where projects have entered the exploitation stage of production seem to be directed at the companies operating the mines, representing transnational capital. One of the main strategies used in these situations, exemplified in the Colombian and Guatemalan cases, is the attendance of community representatives at corporate annual general meetings (AGMs). These strategies are also representative of the how indigenous communities use networks with actors at multiple scales to create and exploit these opportunities; for example, individuals allied with indigenous Wayúu addressed shareholders at the 2003 Anglo American AGM and were able to meet with the company chair after the meeting to discuss their questions and comments regarding the company's activities.

Engaging in this direct action strategy creates opportunities to voice dissent, incite others into action and draw attention to violations of indigenous rights at an international scale. Voicing concerns and dissent, in the international arena that is the AGMs of transnational mining corporations, creates international attention and exposure, broadens support, and widening and further engaging in activist networks. This allows for the possibility to gain the attention and support of individuals and organizations who are shareholders and who technically own and operate the mine in question abroad. For example, two anonymous shareholders submitted a shareholder resolution for the Goldcorp 2011 AGM that, if passed, would have brought the Marlin mine into compliance with a 2010 IACHR ruling. While it was not passed, 6% of shareholders supported the resolution (Mandhane 2011).

CHAPTER 5: THIRD PARTY REVIEWS AND DISPUTE MECHANISMS

5.1 Introduction

The evaluation of a conflict by a third party is a strategy used by indigenous communities to create opportunities for negotiation between local residents and transnational corporations, substantiate claims made by indigenous communities and to work proactively towards an equitable resolution of conflicts. These strategies, pursued at the international scale, are attempts to utilize the transnational mechanisms of opportunities that exist to address local community concerns. One of the tactics indigenous communities may pursue is attempting to gain an independent review or assessment of the conflict. They may also attempt to resolve the conflict through the IFC's Compliance Advisor/Ombudsman and OECD's National Contact Point dispute mechanisms, when applicable. These strategies are employed in the cases of Guatemala and Colombia, where mining activities have entered the exploration stage of production. Additionally, Guatemalan communities requested reviews and judgements from two autonomous bodies, the ILO Committee of Experts and the Inter-American Commission of Human Rights (IACHR).

In this chapter I explore the second main set of strategies used by indigenous communities to create opportunities: international and independent reviews, and complaint processes. First, I describe how Mayan indigenous people used Compliance Advisor/Ombudsman as a strategy (5.2). Second, I explain how communities have engaged OECD review mechanisms (5.3). Third, I outline how Guatemalan indigenous communities have engaged the IACHR and the ILO Committee of Experts as a strategy (5.4). Finally, I analyse and discuss the effectiveness of these strategies, and their ability to create opportunities for indigenous communities at other scales (5.5).

5.2 World Bank Compliance Advisor/Ombudsman (CAO)

In May 2004, multiple Guatemalan groups called on the World Bank Group to first address and resolve serious outstanding issues regarding consultation rights before granting a loan for the Marlin project. This loan was approved on June 2004, without heeding community requests for improved and adequate consultation. On January 28th, 2005 a complaint was sent to the World Bank and the Compliance Advisor/Ombudsman (CAO) of the International Finance Corporation

(IFC) by the locally active group Colectiva Madre Selva on behalf of the Sipakapense people of San Marcos. The Marlin mine was not yet in operation. The CAO is the independent recourse mechanism for complaints from communities affected by IFC projects. The CAO can serve as a conflict resolution mechanism by assessing complaints and providing recommendations. In the case of the Marlin project, the CAO reviewed IFC and Montana Exploradora documentation, and conducted a field visit to interview complainants, local groups, national and international civil society leaders, and IFC and project personnel.

The findings of this assessment highlighted gross shortcomings on behalf of the IFC and Montana (at that point wholly owned by Glamis Gold) regarding disclosure and consultation processes: “[t]he basis on which the IFC determined that the disclosure and consultation practice of the company was adequate – with respect to being both *meaningful* and *culturally appropriate* is not clear. CAO found no record of analysis of company capacity nor of government regulations or capacity to implement regulations [italics added]” (Office of the Compliance Advisor/Ombudsman 2005, iii). Additionally, the assessment found that the IFC failed to ensure that the company had any oversight mechanisms to guarantee the adequate protection of human rights. Essentially, the CAO established that the original Environmental and Social Impact Assessment used to review the project for loan approval was flawed; several environmental management plans were developed after the project was approved, and after construction had begun (Office of the Compliance Advisor/Ombudsman 2005). The assessment made recommendations that centered on a dialogue between a delegation from Montana and a group of people representing the complainants and people of Sipakapa, in order to “establish acceptable next steps towards achieving resolution of this dispute” (Office of the Compliance Advisor/Ombudsman 2005, 38). The community of Sipakapa in particular had been excluded from any prior consultation processes regarding the Marlin project, and after the release of this report the Sipakapense community demanded an immediate end to all mining activities in Sipakapa. The Marlin mine has never ceased operating since it began exploiting the mineral deposit in 2005.

The CAO’s assessment of the human right impacts of the Marlin mine in Guatemala provided insight into the nature of the conflict, and at least implicitly validated some claims made by affected indigenous communities and allied organizations – specifically regarding claims that indigenous communities were not adequately informed or consulted, and the

company's impact assessment did not outline how the project would be supervised or regulated, prior to the start of the project. Regarding concerns over the impact of the mine on local water quality and sources, the CAO's assessment was completed with documents provided to it by Goldcorp. As well, a geohydrologist who reviewed the CAO's report judged the water assessment component of the final report to be inadequate (Moran, 2003). The information garnered from this assessment was in turn not adequately used by the parties who decided to conduct an HRIA.

A follow up mission by the CAO in early 2006 assessed that there existed a possibility for the conflict to escalate as long as the root causes of the dissent between the conflicting parties remained unaddressed (Office of the Compliance Advisor/Ombudsman, 2006). It is evident from these reports that engaging in dialogue at these early stages was a significant challenge to resolving the dispute. Concerns about the Government of Guatemala's lack of capacity to supervise and regulate the impacts of the mine were also voiced.

5.3 Independent Reviews and the OECD process

In both the Guatemala and Colombia cases an independent review was completed and a complaint was brought to OECD National Contact Point offices. The OECD is an international organization and forum committed to promoting policies that "improve the economic and social well-being of people around the world" (OECD 2011). National Contact Points (NCPs) are government offices that address concerns related to the observance of OECD guidelines for multinational enterprises.

While the central disputes between affected communities and the mining company were not fully resolved in either experience, the indigenous Wayúu community in Colombia experienced more success in invoking the OECD recourse process as a strategy at the international level. As demonstrated in the Colombian case, submitting a request for review with OECD offices can incite a company to commission an independent third party to assess their actions and impact on communities. It is also evident that independent reviews combined with the OECD complaint process are more successful when the review process was truly independent and when complainants to the NCP are willing to engage in dialogue.

In both cases, the affected indigenous community submitted a request for review with OECD NCP offices in the country where the mining company is headquartered. In the case of

the Marlin mine it was with the Canadian NCP, and in the case of Cerrejón Coal it was with the Australian, UK and Swiss NCPs, with the Australian body agreeing to lead the mediating process. The outcomes of these two review processes were very different.

5.3.1. Independent review and the OECD process: the Colombian experience

In the case of Cerrejón, an Adelaide based lawyer submitted a request for review on behalf of the Colombian parties including the community of Tabaco's lawyer, the head of the Tabaco Relocation Committee, a senior legal officer with a Colombian lawyer coalition and unnamed individual complainants for the five communities (Colmer, 2009).

In response to the OECD complaint filed against it, BHP Billiton commissioned an independent review to assess the mine's impact on communities affected by the mine's activities. This review was carried out by a panel of social impact assessment professionals, who also selected a Peruvian firm (Social Capital Group) to act as additional consultants. The review examined issues that were congruent to those raised in the OECD complaint. The OECD complaint process was suspended by the original complainants until the release of the review. The process of engaging a third party to conduct an independent review was thus informally integrated with the OECD complaint process.

Both the community representatives and BHP-Billiton agreed with the recommendations of the independent review for further action. This included a recommendation for talks between the communities and BHP-Billiton. From August 2008 to December 2008, a dialogue was maintained between the Tabaco Relocation Community Committee and BHP, with a member of the independent review panel acting as facilitator.

On December 12th, 2008 an agreement was reached between the parties which included monetary contributions from BHP to the Tabaco community for indemnities and to fund future community projects. After this point, outstanding issues were deemed to be resolved, including the need for an independent party to monitor the consultation process for other communities besides Tabaco that would be subject to future resettlement. Cerrejón decided to 'engage' the Peruvian firm from the independent review process to provide impartial oversight and monitoring of resettlement and relocation issues. A management position – Cerrejón's Social Responsibility Manager – was created to monitor the potential resettlements of other communities. However, there is still ongoing conflict between affected communities and

Cerrejón because of the way that the agreement provisions are being implemented and the lack of compensation for other communities besides Tabaco that are affected by mine activities.

5.3.2. Independent review and the OECD process: the Guatemalan experience

Goldcorp also commissioned an independent review to assess the company's impacts on local human rights; however the review process was fundamentally different than that followed by in the Cerrejón example. It was commissioned completely separate from the OECD process and for very different reasons.

The Goldcorp-led independent review process began in 2008, with a group of Canadian and Swedish shareholders proposing a shareholders resolution for the 2008 Annual General Meeting, after two years of dialogue with Goldcorp and after conducting a trip to the Marlin mine site. Goldcorp and this group of investors came to an agreement, which was formalized in a Memorandum of Understanding. The company agreed to commission an independent human rights impact assessment and this group of investors agreed to withdraw their shareholder resolution.

However, the 'independent' nature of this review has been heavily questioned. The communities affected by the Marlin Mine and the independent review process were never consulted regarding the shareholder proposal or the MOU between the group and Goldcorp. As a letter from affected communities in San Miguel Ixtahuacan illuminated, the review process from the very beginning excluded local indigenous communities, for whom the HRIA was intended to benefit. This is serious omission considering a CAO recommendation outlined in their follow-up mission report regarding the affected communities that states: "[f]urther intervention by outsiders from the international community may result in more harm than good by inadvertently enhancing dividers rather than connectors in communities or fuelling violence and conflict in relation to the mine" (Office of the Compliance Advisor/Ombudsman 2006, 12).

The impact assessment process was headed by a steering committee; this committee included David Deisley, one of Goldcorp Inc's executive vice presidents. There was no indigenous community representative on this steering committee, and one of the greatest criticisms of this process has been the lack of consultation or inclusion of indigenous community members and representatives. One of the original groups involved with the initial shareholder proposal, the Public Service Alliance of Canada (PSAC), pulled out of the HRIA process, stating

that “PSAC has become increasingly concerned with the HRIA process and its relationship with the local communities. ... We have been especially concerned about the lack of free and informed prior consent of the communities in regards to the HRIA, and that the interests of Goldcorp are being put before the interests of the local people” (Law, 2009). A second major criticism questioning the independence of the review is directed towards the environmental review and hazard assessment of chemical constituents for the Marlin mine site. These were done by two different firms with documents and information provided to them by Goldcorp Inc, and without actually visiting the mine in Guatemala. The results of this HRIA were issued on May 17th, 2010.

During this time, the community organization FREDEMI (Frente de Resistencia Miguelese), assisted by Washington D.C. based Centre for International Environmental Law – CIEL, filed a request for review with the Canadian NCP regarding OECD guidelines (Center for International Environmental Law 2009). Their main request was that the NCP undertake an investigation into Goldcorp’s activities, relating to OECD General Policies stating that enterprises should “respect the human rights of those affected by their activities consistent with the host government’s international obligations and commitments” (Center for International Environmental Law 2009, 6). In the NCP report they note that FREDEMI and CIEL did not want to engage in a facilitated dialogue with Goldcorp Inc. as there was no trust between the affected communities and the company. The complainants were seeking out the Canadian NCP to investigate Goldcorp’s activities, make appropriate recommendations, and engage Goldcorp in such a way that they would commit to, among other things, the suspension all mining activities and the closure of the mine. The NCP maintained that it was “not in a position to carry out a field visit,” and in its final report reiterated a recommendation that the two parties “participate in a constructive dialogue in good faith with a view to addressing the issues raised” (Canadian National Contact Point for the OECD Guidelines for Multinational Enterprises 2009, 7-8).

5.4 Inter-American Commission on Human Rights

The Inter-American Commission on Human Rights (IACHR) is an autonomous entity of the Organization of American States (OAS) whose main task is to promote, monitor (via reports and studies), and recommend legislation for the observance of human rights (Goldman 2009).

It may request the adoption of precautionary measures by a state upon reviewing cases where human rights have been violated. These measures are requested in what the IACHR views as

“serious and urgent situations” as preventative measures to prevent “irreparable harm to persons under the jurisdiction of the State concerned” (Inter-American Commission on Human Rights, 2009).

The only instance in all four cases studies where a precautionary measure was requested of the IACHR was in the Guatemalan example. In 2007, a petition was submitted by eighteen affected communities to the IACHR regarding allegations that the mining concession granted to Montana for the Marlin mine was issued without ‘prior complete, free and informed consultation’ of the indigenous communities impacted by the mine (Center for International Environmental Law, MiningWatch Canada and Breaking the Silence, 2010). The statement from the IACHR also specifies that the petitioners indicated that mining activities have negatively impacted the local water supply, environment, property and life of the affected indigenous peoples (Inter-American Commission on Human Rights 2010). The IACHR issued a strong statement, granting a precautionary measure (PM-260 07) on May 20th 2010. It asked that the State of Guatemala suspend mining at the Marlin project, implement measures to prevent environmental contamination, to decontaminate polluted waters, provide health care for those affected by contamination, to guarantee life of community members, and to implement these measures with the participation of the affected communities or their representatives (Congress of the United States, 2009)

Less than a month later, Guatemala’s president Álvaro Colom responded to the precautionary measure with an announcement that he would suspend the mine’s operations over the course of several months (Campbell 2010). International attention was brought to the case, and pressure exerted on President Colom to follow through with the suspension of the mine; members of the U.S. Congress sent a letter to Colom, urging him to comply (Congress of the United States, 2009). However, the mine’s operations were never suspended. Over a year after the precautionary measure was issued, the Guatemalan government ask the IACHR to lift or modify the precautionary measure. The impetus for this request was a study examining the mine’s impacts on water quality¹¹, funded by Goldcorp Inc, concluded there was no evidence to suggest the mine’s activities were negatively affecting the local water supply (Ramírez 2011).

¹¹ Two independent studies, completed by researchers from the University of Ghent and the University of Michigan, have respectively concluded that local water supplies are being contaminated or that the potential for contamination exists (Zarsky and Stanley 2011).

5.5. Analysis of independent reviews and third party complaint processes

In comparing the two experiences of indigenous communities with the OECD complaint process there is some indication of when this strategy of third party mediation is most effective – when it is coupled **with a truly independent review process acceptable to all parties** and a desire to engage in dialogue. Both of these instances of third party reviews indicate the extent to which this strategy can be effectively used by indigenous communities to oppose mining activities. The OECD bodies have no ability to force compliance with any of their recommendations or internationally established standards regarding indigenous human rights. In the case of the use of OECD mechanisms, the NCP offices facilitated a dialogue focused on what they determined are the primary points of contention. However, there is a limit to their involvement and it is crucial that all parties utilize the period of time when OECD offices are facilitating talks to establish and commit to procedures and projects that will be able to address the root causes of conflict in the future, throughout and past the lifespan of the mining project. The true nature of any ‘independent’ reviews undertaken is crucial if it is going to be used as a tool by indigenous communities. This assessment process is most useful when all parties (a) agree that another party should become involved and (b) that the panel of reviewers are accepted by both parties. The potential of these assessments to falsely legitimize mining activities and actually exacerbate the conflict should be openly addressed and considered with great care. However, in the Colombian example, using OECD mechanisms enabled an independent review to be conducted, which validated their claims and enabled them to pursue retribution and to relocate their community.

Indigenous communities engage in strategies at the international scale in order to create opportunities that would require companies and governments to observe indigenous rights as they are required to do under ILO 169. In these two cases, the strategies to engage transnational complaint processes and engage in third party reviews were pursued after it became evident that their concerns were not adequately being addressed on a local or national scale. For example, the Supreme Court of Colombia ruled in May 2002 that town of Tabaco had to be relocated by the municipality of Hatonuevo (Mines and Communities 2002), but this ruling was never enforced. Upon engaging with BHP-Billiton through OECD mechanisms, they were able to gain retribution. In the Guatemalan example, the opportunity created by requesting a precautionary

measure from the IACHR was the opportunity to engage with their government at the international arena, with the support of an organization that itself carries political weight.

CHAPTER 6: CONCLUSION

6.1 Summary of key findings

In this thesis I examined the different strategies used by indigenous peoples who are defending their rights and opposing mining activities, including how they do so given the multi-scalar nature of these conflicts. I compared conflicts from cases in Guatemala, Panama, Colombia and Peru.

After conducting a literature review, I sought to address a gap in the literature and examine specifically the strategies used by indigenous people to oppose mining activities and defend their rights in Latin America. Using a multi-scalar theoretical framework, established in Chapter 3, I considered the following two questions (1) *What are the main strategies and tactics that indigenous communities use to oppose mining activities and defend their rights?* (2) *How are these strategies used within the context of multi-scalar mining conflicts?*

Pursuing the first of these two questions, I conducted a systemic literature review to identify cases studies that were comparable. I then surveyed the grey and academic literature chronicling and detailing the primary strategies used by indigenous communities.

My results indicate that indigenous people oppose mining activities using two sets of strategies: (1) direct action, and (2) independent review and dispute mechanisms. Direct action activities used in these cases by indigenous peoples included **road blockades** and **demonstrations, property destruction** and **attendance at Annual General Meetings (AGMs)**. The independent review and dispute mechanisms used were in conjunction **OECD National Point of Contact processes with third party reviews, World Bank Compliance Advisor/Ombudsman complaint procedures**, and **requests for precautionary measures to be issued from the Inter-American Commission on Human Rights**.

I addressed my second question by critically examining the strategies indigenous communities used in my four case studies from a scale perspective. I observed that the strategies of direct action, and independent reviews and dispute mechanisms are used as attempts to create and exploit opportunities that exist at other scales. Indigenous communities thereby use multi-scalar strategies when opposing mining activities. The direct action strategies of road blockades and demonstrations can be especially effective in gaining short term concessions from other parties. These short term gains can potentially translate into longer term protection for indigenous peoples. Independent reviews and third party complaint processes work to establish

opportunities for indigenous communities to engage with other parties in transnational forums. However, there is some indication that these strategies are most effective when coupled with truly independent review processes, as they otherwise run the risk of falsely legitimizing mining activities and exacerbating existing conflicts.

6.2 Areas for future research

There is a growing body of literature on indigenous communities resisting or opposing mining activities and regarding indigenous anti-mining movements. Possible avenues for future research on the strategies and tactics of indigenous peoples imbued in mining conflicts would be to examine one specific strategy across many cases. These and similar cases may benefit from an in depth theoretical examination of the multiple spatialities of opposition and resistance – place, networks, positionality and mobility – in addition to scale (Leitner *et al.* 2008).

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APPENDIX A: SAMPLE TEMPLATE OF ‘VARIABLES’ TABLE

MINING	DESCRIPTION	SOURCES/LINKS
Mining Codes; date of last reform; important reforms		
Specific project of interest		
Concession granted/total area covered		
Stage of project (exploration, extraction etc.)		
Specific managerial position for indigenous peoples’ issues?		
INDIGENOUS	DESCRIPTION	SOURCES/LINKS
Number of indigenous people in that country		
Number of indigenous organizations in that country		
Status of indigenous peoples (Van Cott)		
Status of rights to land		
Incorporation of indigenous people into constitution		
Socio-economic status of indigenous people		
History of mobilization against mining projects [y]/[n]; major events?		

APPENDIX B: CONFLICT TIMELINES

	PERU
2008	<ul style="list-style-type: none"> • President Alan Gracia issues 101 presidential decrees (March – June) • Road blockade staged by Amazonian indigenous groups (August) • President of Congress and indigenous leaders sign an <i>Acta de Acuerdo</i> (August 20) • Congress passes the Law N° 29-261, repealing decrees N° 1015 and 1073 (September 21) • The Comisión Multipartidaria is established (September 26) • The Comisión Multipartidaria releases its final report (December 2008)
2009	<ul style="list-style-type: none"> • AIDSEP declares a national strike (April 8) • Hundreds of indigenous people occupy Station 6 of North Peruvian Oil Pipeline (April 26) • Government declares state of emergency in five districts (May 9) • AIDSEP leader Alberto Pizango announces indigenous ‘right to insurgency’ • Decree N°1090 declared unconstitutional by a congressional commission (May 19) • <u>Fourth Continental Summit of the Indigenous Peoples of the Americas</u> held in Puno (May 27 – 31) • Debate to repeal decree N°1090 suspended by a member of Gracia’s <i>Alianza Popular Revolucionaria Americana</i> party (June 4) • Bagua Massacre; 34 people are killed, 200 are injured (June 5) • Trade unionists, highland <i>campesinos</i> and students demonstrate in solidarity with AIDSEP (June 9) • Decrees N° 1090 and 1064 revoked; Gracia publicly admits to failing to consult with indigenous communities prior to passing decrees that impacted their land rights (June 17, 2009) • Report by UN Special Rapporteur James Anaya regarding the June 5th events is released (August 18, 2009)
2010	<ul style="list-style-type: none"> • Peruvian congress passes Prior Informed Consultation Law for Indigenous Peoples (May 19) • Gracia vetoes Prior Informed Consultation Law for Indigenous Peoples (June 21)
2011	<ul style="list-style-type: none"> • Aymaran Frente de Defensa de los Recursos Naturales de la Zona Sur de Puno hold 48 hour strike opposing granted mining concessions (April 24 -26) • Large demonstration and 300 km long road blockade against Santa Ana mine and other mining activities, organized primarily by the Defense Front and the CONAMI, begins (May 9) • Road blockade removed and protest ends with deaths of five protestors (June 25) • Peruvian government revokes Beer Creek’s license to open the Santa Ana mine (June 26)

	COLOMBIA
1976	<ul style="list-style-type: none"> Contract signed between state owned Carbocol S.A. and ExxonMobil affiliate Intercor (December)
1980	<ul style="list-style-type: none"> Intercor begins purchasing land in la Guajira
1984	<ul style="list-style-type: none"> Government of Colombia in conjunction with Intercor, a subsidiary of Exxon, being creating the Cerrejón coal mine
.....	
2000	<ul style="list-style-type: none"> Consortium of three companies (BHP-Billiton; Xtrata; Anglo America plc) acquire Colombian government's share of the mine (November)
2001	<ul style="list-style-type: none"> Colombia's Mining Code is reformed with Act 685 (August) Intercor (mine operator at the time owned by Exxon) demolishes most of the houses in the village of Tabaco (August 9)
2002	<ul style="list-style-type: none"> Last remaining buildings in Tabaco demolished (January) ExxonMobil sold its 50% share in El Cerrejón to its partner, a multinational consortium three companies (March) April 2002: end of demolition of Tabaco May 7 2002: Supreme Court Ruling: the local authority – municipality of Hatonuevo – must reconstruct a viable settlement for the displaced community – in a location acceptable to the people of Tabaco
2003	<ul style="list-style-type: none"> Wayúu community allies attend Anglo-American AGM general meeting (April 25)
.....	
2005	<ul style="list-style-type: none"> A delegation of Colombian organization released a “Declaration of La Guajira” May 24th, 2005:
2006	<ul style="list-style-type: none"> Jose Julio Perez – representing Tabaco residents – visits Salem Massachusetts (March) Salem City Council passes resolution on the Cerrejón mine (April 26) North Shore Colombia Solidarity Committee sends delegation to Colombia in conjunction with Witness for Peace(August) Protests staged in city of Riohacha, Colombia against forced removals by Cerrejón and in commemoration of the razing of Tabaco in 2001, joined by visiting delegates (August 9) October – November 2006: Delegation from the North Shore Colombia Solidarity Committee visits Colombia (7 day trip)
2007	<ul style="list-style-type: none"> Australian National Contact Point (ANCP) receives a ‘specific instance’ regarding BHP-Billiton’s involvement in the Cerrejón Coal Company in Colombia (July 2) Swiss NGO (ASK) lodges complaint regarding Xstrata’s relationship with Cerrejón (October 4)
2008	<ul style="list-style-type: none"> Independent review releases report (February) Cerrejón and the Tabaco Relocation Committee begin talks to address the situation of Tabaco families with Dr. Harker as a facilitator (August) An agreement is reached between Colombian complainants and BHP-Billiton resolving resettlement issues “and clearing the way for sustainable

	development” including monetary contributions on the part of BHP-Billiton (December 12)
2009	<ul style="list-style-type: none"> Wayúu community leaders return to speak out at BHP Billiton AGM (October)
2010	<ul style="list-style-type: none"> Mining code reform approved by Álvaro Uribe’s administration (March)
2011	<ul style="list-style-type: none"> Colombia’s constitutional court rules that the 2010 mining code reform is unconstitutional (May) Wayúu representatives return to BHP Billiton AGM to voice dissent (October)

	PANAMA
2011	<ul style="list-style-type: none"> Law 8 is passed by Panamanian Congress (February 11) Indigenous Ngöbe begin staging protests and road blockades along the Pan-American highway, others protest at the University of Panama, in opposition to Law 8 (February) President Martinelli announces Law 8 will be repealed (March 3) Law 313 is passed, officially repealing Law 8 (March 13) Ad hoc committee of government representatives and indigenous Ngöbe leaders meet to discuss mining issues (March 21) Ngöbe protests due to lack of government commitment to dialogue regarding mining reform (early October) Panamanian government suspends debate on mining reform law (October 26) Government and Ngöbe representatives meet to discuss a draft mining law (October 27)
2012	<ul style="list-style-type: none"> Mining code reform debate to be reopened in Congress (January)

	GUATEMALA
1995	<ul style="list-style-type: none"> Guatemala ratifies ILO Convention N° 169 as part of 1996 Peace Accord (March)
1996	<ul style="list-style-type: none"> Decree number 9-96 National congress approves formal integration of ILO treaty 169 (March)
1997	<ul style="list-style-type: none"> Mining code is reformed (July)
.....	
2002	<ul style="list-style-type: none"> Glamis acquires Montana
2003	
2004	<ul style="list-style-type: none"> Residents from San Marcos place a formal complaint demanding that the permit to operate be revoked (February 2004) Report from hydrogeologist commissioned by Madre Selva is released (February) Construction of the mine begins (May) IFC loan is approved (June) Sipakapa as a municipality declares “at the national and international level, that the granting of the licence for open pit metal mining violates the collective rights of the [I]ndigenous peoples who inhabit our territories” (Imai 2001, 110) after poll results show 95.5% of those surveyed were against

	<ul style="list-style-type: none"> implementation of mining activities in Sipakapa (November 6) Road blockade in Sololá commences (December)
2005	<ul style="list-style-type: none"> Road blockade in Sololá ends with the death of one protestor (January) Complaint sent to the World Bank and Compliance Advisor/Ombudsman (CAO) by local group Madre Selva on behalf of Sipakapanese communities Sipakapanese <i>consulta</i> regarding mining activities in their municipality takes place, majority vote 'No' to mining (June) CAO assessment released (September)
2006	<ul style="list-style-type: none"> Community representatives go to Glamis Gold AGM (August) Goldcorp merges with Glamis Gold (November 4)
2007	<ul style="list-style-type: none"> Constitutional Court decision finds the Sipakapa <i>consulta</i> non-binding (May 8) 18 communities submit a petition to the IACHR
2008	<ul style="list-style-type: none"> Individuals from the community of Agel tamper with power lines supplying electricity to Marlin mine (June) Goldcorp sponsored Human Rights Impact Assessment (HRIA) independent review process begins
2009	<ul style="list-style-type: none"> Public Service Alliance of Canada withdraws from HRIA over concerns of the lack of free, prior and informed consent regarding the HRIA (March) Indigenous Mayans protest in Guatemala City, the same day as Goldcorp Inc's AGM (May 22) Protesters set fire to equipment at Marlin Mine (June 15) FREDEMI and CIEL filed OECD complaint with Canadian NCP (December 9)
2010	<ul style="list-style-type: none"> Delegation from Guatemala speaks at Goldcorp Annual General Meeting (April) IAHCR grants precautionary measure 260-07 requesting that Guatemala to suspend mining operations at the Marlin mine (May 20) Representatives from community attend Goldcorp AGM (May) President Colom commits to implementing the IACHR precautionary measures; makes announcement that he is suspending operations at the Marlin Mine (June 23)
2011	<ul style="list-style-type: none"> Benito Morales attends Goldcorp AGM; shareholder resolution calling for the suspension of Marlin operations receives 6% of the vote (March) Ministry of Energy and Mines refuses to suspend Marlin mine – citing lack of evidence of water contamination (August) Guatemalan government requests that IACHR modify or lift the precautionary measures (August)