



Latin American Mining Monitoring Programme

**UN Forum on Business and Human Rights December 2014**

**Obstacles and Challenges encountered by Indigenous Women in their Efforts to Access Effective Remedy and Recognition as Rights-holders by the Extractive Industry**

The Latin American Mining Monitoring Programme -LAMMP

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**(i) Background**

The extractive industry is portrayed as a driving force behind the development of global economies. The Latin American region is no exception as the UN Economic Commission for Latin America and the Caribbean (ECLAC) reports that the mining sector alone had grown from US\$90 billion in 2001 to US\$306 billion in 2011.

However, mining in Latin America is a thorny issue; concessions are generally located in areas populated by rural and indigenous people who are frequently put at the margins of society. These communities depend on natural resources such as the land and water for their survival and are therefore most affected from extractive activities.

The devastating impact of mining on indigenous and rural populations is increasingly being documented and denounced on the basis of different concerns such as the detrimental effects on the environment, water resources, or the menace to indigenous cultural and spiritual heritage. Nonetheless, the industry's impact on the lives of rural and indigenous women continues to be overlooked.

The absence of women in these debates is inexplicable as they are often disproportionately affected by extractive projects. Bearing this, rural and indigenous women are demanding for their rights to be respected and placing themselves at the forefront of resistance movements and community struggles. However, their activism comes at a great price often resulting in violent backlash, criminalization and human rights abuses.

Furthermore, facing gender, class, and racial discrimination within local and national structures, the demands of women human rights defenders (WHRDs) are often dismissed or ignored. Their efforts to access effective remedy, including judicial mitigation for human rights violations provoked by the extractive industry, are paved with obstacles. It is critical that this issue is addressed.

**(ii) Our goals**

-To strengthen the capacity of rural and indigenous women to become key agents of positive change

-For stakeholders in the extractive industry to recognise rural and indigenous women as rights-holders and apply a gendered perspective to their activities

### **(iii) Objectives and format for side-event**

The side-event will be structured as such: a panel of three speakers, followed by a plenary session inviting the audience to ask questions and share commentaries.

The panel aims to draw on personal experiences lived by Latin American WHRDs in their everyday struggles to demand for justice and for the respect of their human rights. Two WHRDs and a human rights lawyer will share their narratives of resistance in Peru and Guatemala.

By giving WHRDs the floor, we hope to raise awareness on the multitude of challenges faced by rural and indigenous women:

-Lack of recognition of women in rural and indigenous communities as rights-holders: Although there is increasing recognition of the need for the extractive industry to engage with women in affected areas, this rarely move away from a financial discourse (for example questions of how can women benefit from employment opportunities, or how to compensate women as a consequence of land loss).

However, the concerns of rural and indigenous women often go beyond monetary remedies: women have a different understanding of the needs of their families and communities than men. These need to be recognized, respected and taken into account by the industry.

-Social, economical and cultural marginalization: The UN Guiding Principles on Business and Human Rights (UNGPR) stipulate that business enterprises “should avoid infringing the human rights of others and should address adverse human rights impact with which they are involved” (p11).

Rural and indigenous women in Latin America are subject to various forms of discrimination based on ethnicity, gender and class. Current research on the effects of the extractive industry on women’s lives has shown that instead of advocating and exercising equality, the industry perpetuates most forms of existing discrimination.

-Criminalization and repression: Taking into account the widespread criminalization of activists and impunity of perpetrators in Latin America, we aim to raise awareness of the high levels of risk faced by many WHRDs. In addition, the speakers will discuss gendered repression and its detrimental impacts.

This discussion is critical to ensure that the safety of WHRDs is recognized as an issue and to broaden understanding of the concept of ‘protection’, to one that is inclusive of WHRDs psychological well-being.

### **(iv) Main speakers**

-Yolanda Oqueli (Guatemala): Yolanda is the driving force behind the community-led resistance camp ‘La Puya’. This movement initiated in 2012 in opposition to the El Tambor mining project managed by EXMINGUA (subsidiary of US-based mining company Kappes, Cassidy and Associates).

In 2012, Because of her work in defence of the communities’ right for informed consent Yolanda was attacked by two unidentified men on motorbikes who shot at her. Although she survived, she

still suffers from physical pain and the incident scared her psychologically. This attempt against her life was never investigated and remains in impunity.

Following this, Yolanda continues to be the target of threats, harassment, criminalization and various attempts against her life. In 2013, Yolanda faced legal charges for the supposed kidnapping and intimidation of three mineworkers. The court eventually discharged Yolanda on the basis of being a woman and therefore unable to carry out these attacks.

Yolanda's experience is steeped in a complex climate of violence that characterises Guatemala's governance:

- Many activists lament the legacy of Guatemala's civil war and subsequent genocide in the current government. They denounce the impunity and inability of the State authorities to be accountable for past atrocities that occurred during the conflict. This often implies the severe lack of transparency and impartiality in court dealings.

- The Guatemalan government has shown itself increasingly hostile to human rights defenders and environmental activists. Protests are gradually being criminalized, infringing on their freedom of expression and of peaceful assembly.

- Femicides and gender based violence are also inflating at an alarming rate in Guatemala, sending the chilling message that it is unsafe to be a woman, especially in public spaces. These offences are seldom investigated and perpetrators frequently run free.

All these elements considerably impact on Yolanda's health and ability to carry out her work as a WHRD: in November 2013 she was admitted into hospital because of stress-related illness.

Yolanda struggles to attain justice for her attempted murder and other human rights abuses provoked by the mining project on community members.

-Máxima Acuña de Chaupe (Peru): Máxima is from a rural community in the highlands of Cajamarca; a region that attracts much interest from extractive companies for its wealth in minerals and ore deposits. This is where Yanacocha, Peruvian subsidiary of Newmont Mining Corporation plans to implement the Conga project: an open-pit gold mine affecting five major river basins in the area and directly threatening four lakes, the main water supplies of nearby communities.

Máxima is at the heart of the ongoing resistance against this project and has become a nationwide symbol of the defence of the land, water and human rights.

Since 2011, the mining company has relentlessly attempted to expropriate Máxima and her family's land: in August that year, Máxima and her family were subjected to a violent eviction attempt in which both she and her daughter were beaten unconscious. Although Máxima denounced the acts of the police agents, the public prosecutors responded by ignoring and filing her complaint.

In 2012, Yanacocha accused Máxima of illegally occupying their land; a lawsuit ensued and has yet to be resolved. Máxima is currently awaiting the verdict for her most recent appeal from 2014. Facing the danger of being evicted, Máxima continues to defend her land and her rights. As a result, she is frequently harassed and threatened by Yanacocha staff as well as public security forces employed for the protection of the mine.

-Dr. Mirtha Vasquez Chuquilin (Peru): Dr. Vasquez is a lawyer from the Grupo de Formacion Integral de Desarrollo Sostenible (GRUFIDES), a non-governmental organisation based in Cajamarca. Their goal is to promote sustainable development through the protection of the environment and human rights of rural and indigenous communities.

Given the lack of state intervention to support those affected by the extractive industry, GRUFIDES has taken on the role to provide legal assistance to activists in Cajamarca. Dr. Vasquez is the legal representative of Máxima Acuña de Chaupe in the ongoing lawsuit launched against her by Yanacocha.

As a result, Dr. Vasquez and other workers of GRUFIDES are frequently threatened, intimidated and persecuted. She also alleges to be the target of attempts from Yanacocha and private security company FORZA, to individually, morally and/or institutionally discredit her and her organisation. In November and December 2012, Dr. Vasquez' home was raided twice in three weeks, leaving the clear message that she was vulnerable and at risk.

From her involvement in the court dealings with Yanacocha, and based on her own knowledge and experiences as a lawyer and a WHRD, Dr. Mirtha Vasquez Chuquilin will discuss the challenges faced by rural and indigenous women in their attempts to access justice and other remedies in Peru.