



Latin American Mining Monitoring Programme

In follow-up to the **IVth Annual Forum on Business and Human Rights** (Geneva, 16th and 18th November 2015), the Latin American Mining Monitoring Programme (LAMMP) kindly wishes to share this report to the members of the UN Working Group on the issue of human rights and transnational corporations and other business enterprises.

Following LAMMP's participation on the side-panel: **Recognising indigenous peoples' rights to land, territories and resources, and challenges to their access to mechanisms for redress**, and supported by the conclusions from the conference **Beyond Good Business: Advocating for Women's Rights in the Context of Natural Resource Extraction and the UN Guiding Principles on Business and Human Rights**¹, this paper seeks to draw your attention to the specific impacts of natural resource extraction on the human rights of indigenous and rural women in Latin America.

Natural resource extraction (NRE) is a well known source of social conflicts worldwide. Its activities have recognised devastating impacts on the ecosystem, as well as on communities' rights to land, territories and resources, among many others. Latin America is no stranger to these processes as the region is central for the world's supply of metals and is considered a substantial mineral reserve; in 2014, the continent accounted for 45 per cent of global copper production, 50 per cent silver, 26 per cent molybdenum, 21 per cent zinc and 20 per cent gold².

As the sector expands and demands grow, indigenous, peasant and other rural peoples see their lands rapidly encroached by large-scale extraction projects and find themselves competing with large multinational corporations. Women from these affected communities are increasingly emerging as vocal leaders in this endless power struggle over land, resources and territory. Challenging multi-layered forms of ethnic discrimination, they are also confronted with a number of economic, social and political barriers. Given this context of historic oppression, LAMMP believes it is crucial their voices are heard and incorporated within the broader business and human rights agenda.

LAMMP is a UK-based charity that supports rural and indigenous women across Latin America who are affected by large-scale development activities, including natural resource extraction in their communities.

LAMMP's vision is a world where women adversely affected by development activities have an equal voice in the defence of their rights, land and resources, and realise their aspirations for peaceful communities

1 International conference **Beyond Good Business** was organised by LAMMP and took place on 26th October 2015 at Senate House, London. For more information, please visit: <http://lammp.org/wp-content/uploads/2015/11/Beyond-Good-Business-report-05.11.2015.pdf>

2 Vergara, R. (2010) "Mining in Latin America", retrieved from www.whoswholegal.com

1. Specific impacts of resource extraction on the lives and well-being of women

Whether environmental degradation, health risks and the fragmentation and polarisation of community life, irresponsible NRE practices have already left a significant impact among rural and indigenous communities in Latin America³. In this section, LAMMP hopes to demonstrate that none of these processes are gender neutral and that NRE affects women's livelihoods, rights and well-being on a number of levels.

1.1. Lack of consultation perpetuates women's marginalisation

“Our land is sold and we only find out when the workers come into the community” (Indigenous leader interviewed by LAMMP, name withheld, October 2013).

Lack of participation in decision making is a frequent complaint emerging from the narratives of rural and indigenous women in NRE affected communities; across Latin American rural women, both indigenous and non-indigenous, face important barriers that inhibit their participation to decisions regarding corporate activity that will ultimately shape their lives. Such barriers include lack of time and financial resources, social stigma and low literacy levels⁴.

However, recent reports have suggested that extractive companies do not actively take these factors into account in designing their engagement policies and strategies and provide little space for engagement with women⁵. These practices contribute to the fading of women's agenda in the wider debates on development and NRE. As a result, women are not only being excluded from compensation schemes but their specific gender needs, concerns and priorities overlooked.

1.2. Impacts on environment exacerbate women's poverty

Rooted in many indigenous practices across Latin America, women are considered the repositories of customary knowledge, and are also the ones responsible for subsistence agriculture, small trade and household chores⁶.

For rural and indigenous communities NRE is associated to noise, pollution, soil erosion, lack of water and

3 Font, T. (2012) Territory, natural resources and social conflict in Latin America in *ICIP E-Review*, 14

4 OECD Development Centre (2006) Working Paper No. 247- Measuring Gender (IN)EQUALITY: Introducing the Gender, Institutions and Development Data Base (GID)

5 OXFAM (2015) Community Consent Index, 2015: Oil, gas and mining company public positions on Free, Prior and Informed Consent.

6 IFAD (2004) Enhancing the Role of Indigenous Women in Sustainable Development IFAD Experience with Indigenous Women in Latin America and Asia

deforestation. These transformations severely disrupts indigenous women's livelihoods and ancestral ways of life. In this setting, they increasingly find their entire world view under threat, as well as their roles within their homes and communities⁷. One indigenous women from a mining community in Ancash in Eastern Peru, whilst interviewed by LAMMP claimed: *"It is difficult for us to do our house chores without water; the land has dried up and we no longer can plant our crops and we have nothing worth selling in the markets"*.

The perception of mining as a male activity means that, NRE ventures mainly provide employment to male workers and in those occasions when women do receive employment, these are generally restricted to low-paid and low status activities, such as cooking and cleaning. The destruction and contamination of natural resources upon which women's contributions to the finances of the family depends, mean that women's status within the family is undermined and their financial independence compromised⁸.

1.3. Impacts on health and reproductive rights

Extractive activities have a significant impact on community health, disproportionately affecting women, including their sexual and reproductive health; hard metal contamination emanating from resource extraction activities are known to increase incidences in miscarriages, ovarian cancers, premature births as well as other repercussions on their sexual and reproductive health. The impact of NRE activities is further exacerbated by the fact that, in Latin America, Indigenous people, especially women, continue to lack access to basic healthcare and services⁹, thereby accentuating their vulnerability.

Goldcorp's Marlin mine in Guatemala, is an emblematic example of how NRE activities affect indigenous women exposing them to dangerous levels of contamination, worsening health, psychological conditions, including higher rates of drug addiction and sexually transmitted diseases¹⁰. The Oroya region of the Peruvian Andes, is another example illustrating the the impacts of NRE activities on women; considered to be one of the most contaminated places in the world, Oroya is a densely populated city polluted by toxic smoke originating from the Doe Run Peru metal smelter. A large number of children from the community have suffered significant blood poisoning as a result of exposure to heavy metals, intensifying women's burden of work as mothers and

7 Differential impact of resettlement is addressed in the *UN Basic principles and guidelines on development based evictions and displacement. Annex 1 of the report of the special rapporteur on adequate housing as a component of the right to an adequate standard of living A/HRC/4/18* (cf. Art 7)

8 OXFAM Australia (2009) *Women, Communities and Mining: The gender impacts of mining and the role of gender impact assessment*

9 Hall, G. & Patrinos, H.A. (2005) *Indigenous Peoples, Poverty and Human Development in Latin America: 1994-2004*. the World Bank Group

10 <http://tribunaldesalud.org/2012/07/16/el-tribunal-pop/>

carers of their families¹¹

children's¹², Exposure to health risks, multiplies women's workload as main carers for their families¹³.

2. Violence against women and gender-based violence in the context of NRE

Across Latin America, NRE activities have brought along significant transformations to the social fabric of affected communities. Fragmentation, polarisation and division are a main concern for rural and indigenous women who witness daily the soaring tensions and the ongoing social conflicts between communities, companies and the State. Women are not simple bystanders in these struggles, on the contrary they are continuously struggling to adapt and respond to this crisis situation, and are increasingly challenging it.

2.1. Migration and fragmentation of community dynamics

"Young people are becoming used to living in the fast lane of alcohol abuse, violence and easy money" reports E.B., and indigenous woman from Venezuela commenting on the visible increase in substance abuse, organised crime and heightened violence since mining arrived in her community (LAMMP, 2013).

For many indigenous and rural women, the male-dominated nature of NRE represents a direct threat of violence against women (VAW) and their bodies, as they report experiencing daily intimidation and harassment¹⁴ (See Case Study 1). Increased levels of alcohol consumption for example, may expose local women to further instances of domestic violence, which tends to go under reported¹⁵. Moreover, with the rapid influx of migrant workers, women from communities witness the alarming increase of prostitution and sex trafficking, particularly of young girls. These fears were confirmed for example in Cartagena, Colombia, where teenage girls were forced to sell their bodies to workers at a US owned company¹⁶. Similar cases of forced labour have emerged across the continent, including in Peru where indigenous women hired as cooks in

11 The Doe Run Peru Smelter Causes a Public Health Crisis -http://www.aida-americas.org/project/doerun_en. Retrieved 2nd February 2016

12 Alexander van Geen, Carolina Bravo, Vladimir Gil, Shaky Sherpa & Darby Jack (2012) Lead exposure from soil in Peruvian mining towns: a national assessment supported by two contrasting examples in *Bulletin of the World Health Organization* 2012;90:878-886. doi:10.271/BLT.12.106419

13 MiningWatch Canada & CCSG Associates (2004) *Overburdened: the impacts of Mineral Extraction on Women's Health in Mining Communities*

14 Solano Ortiz, L. (2015) *Mujer, Violencia e Industria Minera*. El Frente de Mujeres Defensoras de la Pachamama

15 WOMIN (2014) *Women, Gender and Extractivism in Africa: Background Paper FIVE Extractivism's Impacts on Women's Bodies, Sexuality and Autonomy*

16 CINEP (Date unknown) *Impactos de la minería en los derechos de las mujeres rurales en Colombia*

mining settlements were forced to provide sexual services to workers, and to smuggle dynamite and gas¹⁷.

Case study 1: Violence against Women in Mine Affected Communities

The Andean region of Cajamarca in Peru has been the site of one of Latin America's longest standing mining conflict. It is where Yanacocha's Minas Congas is in operation, despite widespread community opposition. The mine was suspended in 2011, after several months of violent social protests in which a State of emergency was imposed. However, communities report that work is ongoing at the site.

On the 16th December 2015, four community members, three of whom were formerly employed by Yanacocha entered the small makeshift home of 27 year old woman activist, Rut Fernandez Huaman. As they marched into her property they violently beat her, verbally abusing her and calling her a "whore". At knife point, the attackers mutilated her body and face before attempting rape. Hearing her screams, Rut's sister and her cousin were able to intervene. They were also brutally attacked by the assailants, and left with several cuts on their bodies. As they left, the perpetrators fired a shot in the air. Whilst in hospital, Rut's home was set on fire destroying all her possessions forcing to seek shelter at the house of relatives upon her return from hospital. Her neighbours reported they saw the same men near the house at the time of the fire, and that they were armed.

She and the other victims worry that the attacks will remain unpunished as they were unable to file a complaint in time at the local Police station. Although the assailants did not give an explicit reason for the beatings, suspect it is related to their engagement in the resistance against the Conga mine, as since 2011 Rut has been receiving death threats. Rut and her sister were known faces in the community mobilisation. For both Rut and her sister, these attacks are a clear examples of the way in which a mine polarises communities between pro and anti-miners.

17 Verite (Date unknown) Risk Analysis of Indicators of Forced Labor and Human Trafficking in Illegal Gold Mining in Peru

2.2. Displacement, dispossession and their impacts on women

Indigenous struggles over land, resources and territories are best illustrated by the use of extreme force and coercion in the context of development-induced displacement. For example, the forced eviction of Lote 8, a Mayan indigenous community in Guatemala to give way to a nickel mine in 2007, became an emblematic case which brought to light the way in which VAW is used to silence and persecute communities in the context of NRE¹⁸. In this situation, displaced women find themselves further alienated, as for example compensation payments, if any, are paid to the official head of household who traditionally tend to be male, making women and children more vulnerable to deprivation¹⁹.

2.3. Social conflicts and persecution of women human rights defenders

In 2015, the Observatorio de Conflictos Mineros en America Latina (OCMAL) recorded 208 mining conflicts throughout Latin America, mostly affecting Peru, Mexico and Chile²⁰. These conflicts have been characterised by the excessive use of force by corporate and state security, by heightened militarisation and by the persecution of indigenous and environmental rights defenders²¹.

In this setting, instances of VAW continue to emerge as indigenous and rural women human rights defenders (WHRD) attempt to stand up against irresponsible NRE policies and practices. However, very few of these cases are adequately investigated, let alone prosecuted. In 2012, JASS revealed that 37.9% of all attacks against WHRDs in Central America alone were linked to the struggles of land, resources and territory²².

The reported widespread utilisation of criminalisation²³ aimed at discrediting, de-legitimising and weakening human rights defenders resistance movements, also takes a distinct gendered dimension when targeting women leaders. They face very particular and distinctive challenges stemming from their gender and social-economic backgrounds²⁴. The attacks against WHRDs and activists, particularly those from a poor, indigenous or rural background affect their personal integrity, their relationship with their families, households and

18 Von Gall, A. (2015) Policy Paper: *Litigation (im)possible? Holding companies accountable for sexual and gender-based violence in the context of the extractive industries*. European Center for Constitutional and Human Rights.

19 Stanley, J (2004) Development-induced displacement and resettlement retrieved from www.forcedmigration.org

20 FDCL (2015) *Mining Boom in Latin America Factsheet*

21 Global Witness (2013) *Deadly Environment: The rise of killings on environmental and land defenders*

22 JASS (2012) *Violence Against Women Human Rights Defenders in MesoAmerica 2012 Summary Report*

23 Criminalisation is defined in this paper as "the arbitrary use of the law, the threat of using it, or the stigmatisation of acts, ideas, and proposals of human rights defender" Definition used by Latin American organizations before the Inter-American Commission of Human Rights since 2004 (Reference to Mesoamerican Initiative Of Women Human Rights Defenders (2015) *Violence against Women Human Rights Defenders in Mesoamerica 2012-2014 Report*)

24 Red ULAM & LAMMP Forthcoming report on Criminalisation of Women Human Rights Defenders, (Spring 2016)

communities, as well as inhibits their ability to sustain their activism²⁵ (See Case Study 2).

Case Study 2: Yolanda Oqueli, the challenges for a woman human rights defender in Guatemala

Yolanda Oqueli is a woman human rights defender in the peaceful movement against El Tambor gold mine owned by US-based Kappes, Cassiday & Associates (KCA). Demanding for the respect and protection of the human rights of the affected communities, Yolanda called upon the government of Guatemala and the mining company to dialogue.

Because of her involvement in the struggle, Yolanda has been the target of insults, threats and physical attacks. On 13th June 2012, as Yolanda was driving back from La Puya, an attempt was made to kill her. Fortunately Yolanda survived the attack but she is still suffering from psychological and physical pain as one bullet remains lodged close to her spine.

The assault was never fully investigated and was left in impunity, and further attacks have continued against Yolanda; she reports being frequently followed by unidentified vehicles, and has heard gunshots outside her parents' home. On the 5th April 2014, an unidentified man approached her children's school to enquire about her activities, sending a clear message that her family was also under surveillance.

Defamation is another frequent tool utilised with the objective to silence Yolanda, most of the time revealing significant gender-based abuses. Within her community, Yolanda has seen leaflets circulated accusing her of being a prostitute, an alcoholic and not to be trusted. In another incident, Yolanda and a fellow woman human rights defender saw a picture of their faces "photoshopped" onto that of a naked woman's body disseminated on social media. Again, despite her complaints, none of these incidents are investigated.

As a result of the invasive and constant nature of the attacks against her, Yolanda reports feeling weakened, both physically and psychologically.

Note: Further information on the specific impacts of criminalisation and repression against Yolanda Oqueli and other women human rights defenders in Latin America can be found on the Latin American Database (LAMBDA in its Spanish acronyms) forthcoming report (Spring 2016)

25 LAMMP (2015) *Beyond Good Business: Advocating for Women's Rights in the Context of Natural Resource Extraction and the UN Guiding Principles on Business and Human Rights- Report 5th November 2015*

3. Challenges for reparation and remedy

Seeking redress for business-related human rights violations remains an edifying challenge for indigenous and rural women affected by NRE. Widespread impunity has come to characterise the region where governments often lack capacity and/or political will to act upon human rights violations perpetrated by or contributed to NRE industries. In this setting, LAMMP has provided evidence of a clear power dynamic which consistently inhibits women victims of violations' access to remedy²⁶.

3.1. Practical barriers to women's access to Justice

Emerging from a number of accounts and testimonies from rural and indigenous women in mine affected communities are the numerous practical barriers to remedy, such as lack of time, money and resources. As many mine-affected communities in Latin America are located in remote and isolated areas, the travel to Court hearings is for example, a significant strain on women's livelihood and well-being;

“For us, to travel [...] so that our demands will be listened to, the difficulty is that we do not have the money to get ourselves there. Another problem is that it is very difficult in the countryside for the women to find the time, the whole day is occupied.” (Peruvian indigenous woman interviewed by LAMMP & Dr. K. Jenkins, 2012)

These obstacles are often accentuated by the embedded gender and racial discrimination often prevalent at institutional level. Women victims of abuse have reported to LAMMP waiting for hours to be received by Police when attempting to make a complaint, only to be rebuked and dismissed²⁷.

3.2. Protection issues and the emotional cost of remedy

“They call us liars, they say that we are stupid poor people, that we don't know anything, that we are drunks [...], mad women” (Rural woman from Ecuador, interview with LAMMP & Dr. K. Jenkins, 2012)

The issue of remedy for women victims of violations brings to light a number of complex concerns over protection of their personal safety and well-being. Set in a context where gender-based violence and abuse often are normalised, women are frequently forced into silence fearing retaliation or further stigmatisation. In turn, these crimes remain unpunished and gender-based violations of rights are likely to continue²⁸.

26 LAMMP (2015) Response to the UN General Assembly Thematic Report on Natural Resource Extraction and FOAA available at http://www.ohchr.org/Documents/Issues/FAssociation/NaturalResource/LAMP_E.pdf

27 Private exchanges between LAMMP in Peruvian Woman Human Rights Defender, 2011

28 Von Gall, A. (2015) *Policy Paper: Litigation (im)possible? Holding companies accountable for sexual and gender-based violence in the context of the extractive industries*. European Center for Constitutional and Human Rights



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Moreover, in the event that women victims of violations are able to file a complaint, experience shows that these produce high-levels of stress and anxiety as they remain open for long periods of time. As result of their legal pursuits, rural and indigenous women are confronted with a combination of derision from local authorities and mine supporters, increased strain on their resources as well the ongoing fears of retaliation. According to testimonies shared with LAMMP, women victims of violations perceive these as strategies from the mine workers and companies to silence them in struggle for justice, and report a significant increase in defamation and smear campaigns within their local communities often on the basis of their gender (See Case Study 3).

Case Study 3: The dangers of speaking up and seeking remedy, Peru

At 2250 metres above sea level, in the rural town of Ñangali, the Asociación de Mujeres Defensoras del Paramo (AMUPPA) have, since 2008 been struggling to protect their livelihoods and fragile ecosystem from one of Peru's most important copper mine. Minera Majaz S.A., a subsidiary of UK corporation Monterrico Metals began its exploitation on the Rio Blanco project in 2001, despite widespread community opposition. AMUPPA was formed following one tragic incidents, when in 2005, 26 peaceful protesters, including two women were illegally detained and tortured by mine security and police forces. The women were sexually assaulted and subjected to humiliating and denigrating abuse.

"We didn't have food or water. Repeatedly they beat us with their fists and boots. All of them took pleasure in squeezing my breasts so hard that often I felt like fainting. They constantly threatened us with rape, whilst indulging in fantasies of what they were going to do to us" C. Neyra

Seeking support among their own community to denounce the treatment that was inflicted upon them, they found themselves dismissed and rejected on the grounds that, as women, they should not have participated in the protest. Unable to foster solidarity from local community organisations, the women formed their own group, AMUPPA, to strengthen their demands and leadership.

As of 2009 with the help of a British Law firm, the women of AMUPPA and the other protesters detained in 2005 sued Monterrico in the UK Courts. The case was eventually settled by the company, just before it came to trial. Although the victims of abuse did receive compensation, Monterrico has yet to acknowledge responsibility for the violation of the rights of the protesters, and especially for the gender-based abuse suffered by the women.

Unfortunately, the struggle did not end there for the women of AMUPPA. Following the private settlement, they have suffered intense retaliation from community members for having accepted the deal. As the project is now intended to resume under the ownership of Chinese consortium Zijin Tongguan, a local radio show launched a defamation campaign against them, publicly attacking their integrity (reported in 2014). The members of AMUPPA affirm that none of the men who benefited from the settlement suffer the same ordeal. AMUPPA has also been subjected to daily threats, rumours and verbal abuse, most of which are grounded on the premise that as women they are not to speak against the mine: *"Dirty old women, what do you know of rights? Go cook and sweep the house"*, *"The mining project is going to come on top of everything even on top of the women from AMUPPA"* (Abuse reported by AMUPPA, 2014).

Note: Detailed description on the defamation and abuse suffered by the women human rights defenders of AMUPPA can be found on the Latin American Database (LAMBDA in its Spanish acronyms) forthcoming report (Spring 2016)

4. Recommendations

Stemming from the three Pillars of the UN Guiding Principles on Business and Human Rights, LAMMP wishes to make the following recommendations to both States and non-state actors in the context of Natural Resource Extraction:

4.1. States obligations to protect women's human rights

- LAMMP believes that only a legally binding treaty, and mandatory regulations can put an end to corporate violations of human rights. States must implement strict mechanisms to prevent, avoid and sanction cases of human rights abuses in the context of business-led operations, while being sensitive gender and other forms of discrimination;
- In designing and implementing their National Action Plans (NAP) on Business and Human Rights, States should ensure adequate gender safeguards are incorporated throughout, with explicit references to international agreements such as Convention on the Elimination of Discrimination Against Women (CEDAW) and the Beijing Declaration on Platform for Action, as well as cross-cutting reference to the rights of indigenous peoples as framed in UN Declaration for the Rights of Indigenous Peoples (UNDRIP);
- States should request companies carry out human rights due diligence that is gender sensitive and encompassing of the rights of indigenous peoples, including their rights to self-determination and development on their own terms. Ensure companies take appropriate steps to identify, prevent and mitigate rights violations and that access to effective remedy has been guaranteed;
- Design an effective and time-bound framework to monitor and evaluate the implementation of NAPs which will take into account disproportionate impacts suffered by women from indigenous and rural communities
- Ensure that women, particularly rural and indigenous are consulted prior, during and at the closure of a project cycle, and can engage in decision making processes over development initiatives that will shape their lives, including the extraction and exploitation of natural resources
- Strengthen mechanisms to support and protect women human rights defenders;

4.2. Corporate responsibility to respect women's human rights

- Extractive industries must uphold international human rights standards such as the UNDRIP as well as CEDAW to that avoid perpetrating or contributing to harm against indigenous peoples' and women's rights.
- Engage with women from local communities in a way that is sensitive and culturally acceptable, providing

them with the opportunity to fully participate in consultation and decision making processes

-Increase sensitisation within companies on the particular risks to women community members and human rights defenders, particularly from indigenous communities and in fragile or high-risk contexts

4.3. Access to remedy

-Both governments and the extractive industry must explicitly recognise the barriers women face in accessing remedy in their action plans and their implementation, and take action to ensure women have access to effective judicial and non-judicial remedy. This includes provision of adequate legal, technical and financial resources where necessary

-Carry out civil and criminal investigations where human rights allegations have been made, and ensure victims are able to access both host and home country courts, sanctioning companies where appropriate.

- Decision-making about reparation must include victims as full participants, while ensuring just representation of women and girls in all their diversity and ensuring they are adequately informed of their rights.

- All forms of reparation must be considered, both at individual and collective levels, taking into account traditional and customary forms of justice for indigenous peoples. These include, but are not limited to, restitution, compensation and reintegration. A combination of these will be required to adequately address violations of women's human rights by business enterprises²⁹

29 Reference to *Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation* (2007)