Mining in a State of Impunity

Coerced Negotiations and Forced Displacement by Aura Minerals in Western Honduras

Azacualpa residents hold a vigil at the village cemetery threatened by the expansion of Aura Minerals' San Andrés gold mine in La Unión, Copán, Honduras, June 22, 2016.

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Table of Contents

Executive Summary 1

Objectives and Methodology 3

I. Aura Minerals' San Andrés Mine in La Unión, Copán 3

Introduction: Interest in the Community Cemetery 3

Concealing Land Rights and Violating the Right to Consultation 4

Attempts to Forcibly Evict Azacualpa and Relocate the Cemetery 7

Azacualpa Mobilizes to Protect Its Cemetery 9

Criminalization and Malicious Prosecution 11

Negotiation Under Coercion by Government and Aura Minerals 12

Current and Continuing Negotiations: Aura Minerals' Divisive Tactics 13

II. The History of Canadian Mining and Conflict in San Andrés 16

Greenstone Resources (1997-2000) 17

Yamana Gold (2000-2009) 18

III. International "Standards" for Resettlement 19

IV. Canadian Government Promotes Mining in Honduras 19

V. Conclusions and Recommendations 20

Conclusion and Report Findings 20

Recommendations 22

Appendix 1: Summary of the 2012 Relocation Agreement 24

Appendix 2: IFC Performance Standard on Land Acquisition and Involuntary Resettlement 26

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Executive Summary

Since 1998, Canadian mining companies have operated the open-pit San Andrés gold mine in the municipality of La Unión, in the department of Copán in western Honduras, some 300 kilometres west of Tegucigalpa. Toronto-based mining company Aura Minerals now holds the concession rights via its Honduran subsidiary Minerales de Occidente, S.A. (MINOSA) and currently is attempting to expand the San Andrés mine into *Cerro Cementerio* or Cemetery Mountain, named after its 200-year old cemetery.

Six communities bury their loved ones in the cemetery. Two of these communities, San Miguel and San Andrés Minas, were forcibly displaced by previous expansions of the mine. In 2012, Aura Minerals began conversations with residents of another of these communities, Azacualpa, under the pretext of relocating the community graveyard. An agreement was signed that year with local municipal authorities and representatives of Azacualpa. The agreement focuses almost exclusively on outlining a detailed housing project for the 400-500 families of Azacualpa, causing some to believe that relocating the cemetery is being used as a pretext to forcibly displace the entire community. The agreement also establishes time-bound commitments when phases of the agreement are to be fulfilled.

For years, mining representatives, municipal authorities and operators in the justice system have abused their power, spreading false information about the community land rights in La Unión. In the negotiations leading up to the 2012 agreement and in the agreement itself, municipal authorities and the mining company make no mention of Azacualpa's land rights and the details of the original mining concession granted in 1983. Azacualpa is located in the 1838 San Andrés Minas *ejidal* or communal land title, which would invoke a series of rights related to land use and transfer including, at an absolute minimum, community consultations and the acquisition of land surface rights before any mining activities are undertaken. The 1983 San Andrés concession clearly states that mining cannot take place within a 200-metre buffer zone around the community of San Andrés, yet San Andrés was forcibly displaced in 1998 when the mine was owned by Greenstone Resources. Since the 1990s, Canadian companies have violated multiple basic legal procedures with such egregious disregard that it can only have been possible with the cooperation of Honduran government agencies. There is no incontrovertible proof of corruption, but the exercise of impunity is too systematic to be explained by mere incompetence.

In April 2014, Azacualpa residents began protesting when they realized that Aura Minerals was expanding the mine in close proximity to the community graveyard while failing to uphold the commitments outlined in the 2012 agreement. The protest was violently repressed and nineteen community members were arrested and charged with usurpation and illegal protest. On May 14, 2015, residents represented by the Azacualpa Environmental Committee filed formal complaints to the public prosecutor's office about the damages caused by the mining operation in their community.

With no response from the company or the Honduran government, in November 9, 2015, a few months after Aura Minerals committed to fulfilling the 2012 agreement in its totality, community members began blocking access for mining machinery to the base of Cemetery Mountain in an effort to stop the advancement of the mine toward the edge of the graveyard. On November 23, ten people were arrested and six of them were charged, in an attempt to criminalize community leaders that had been most active in publicly denouncing the company. Facing severe consequences, four of the six negotiated with the Honduran government, while Aura Minerals is appealing the decision of the Honduran court to drop the charges against the remaining two. The nineteen individuals have to sign before a judge every two weeks and have court ordered restrictions on their freedom.

There have been a series of attempts by the Honduran government to close the cemetery, possibly in response to Aura Minerals' wishes to expand their operations. The Ministry of Health and Honduran Permanent Commission of Contingents (COPECO), in coordination with municipal authorities in La

Unión have attempted to declare the graveyard unsanitary, a risk to public health, and geologically unstable. The community of Azacualpa was not notified of the government inspections of the graveyard nor were they told when it was requested that it be closed. In further collusion with Aura Minerals, the mayor of La Unión refuses to swear-in newly elected Azacualpa community council leadership after residents held elections to legally remove the previous leadership that has a close relationship, including business ties, with the mining company. This is seen as a strategic decision by the mayor to promote the interests of the mine, particularly as "negotiations" are taking place between Azacualpa community leadership and Aura Minerals.

Since May 2016, Azacualpa and Aura Minerals have made various attempts to reach another agreement based on the key points outlined in the 2012 agreement. Its difficult if not impossible to call this process a "negotiation" as the community is clearly being coerced. Land rights are still not being addressed; Aura Minerals and the Honduran government are setting most, if not all of the conditions of the "dialogue"; and community members still face trumped up legal processes as a result of their resistance. The conversations are also being held in a country with an extremely high impunity rate and no legal recourse, particularly for poor communities. These coerced negotiations are occurring while Aura Minerals is employing divisive tactics in the community, approaching individual family members and offering them two instalments of cash payments, or one of the 120 houses built under the 2012 agreement, in exchange for their consent to exhume their family member(s) from the graveyard.

Three Canadian mining companies, Greenstone Resources, Yamana Gold, and now Aura Minerals have operated the San Andrés mine. Under their ownership, environmental spills, forced displacement of surrounding communities, and violence against people protesting the mine, have been reported and documented. The Canadian government has continuously supported the behaviour of these companies, through public policy and through its support for the Honduran government. Canada supported the 2009 military coup in Honduras that ushered in a series of neoliberal reforms to the detriment of communities, signed a free trade agreement with the post-coup regime, and funded and supervised the writing of the new Mining Code, approved in 2013. The Canadian government's public policy and promotion of Canadian mining companies in Honduras makes it responsible in part for the devastating environment and social impacts caused by mining companies in La Unión, Copán.

This report recommends that the 2012 agreement be cancelled and a new agreement be negotiated by Azacualpa with the help of national and international experts; that compliance with any agreement signed between the community and Aura Minerals be monitored by an international commission, not the Honduran government, and that clear consequences for non-compliance be established; that all six communities should be fully consulted about whether they agree with the expansion of the mine and the displacement of their cemetery; that Aura Minerals and Honduran institutions disclose all information to affected communities regarding concessions and future mining operations; that a comprehensive legal analysis regarding land tenure and transfer be conducted before negotiations move forward or the San Andrés mine expands further; and that a better understanding of the history of communities forcibly displaced by the San Andrés mine be developed, with documented evidence. This should include the communities' interactions with mining companies, how displacement has occurred, any agreements or commitments that were made as a result, and the status of these agreements and conditions of the communities. These facts are critical in understanding if and how mining should proceed in the region in the future.

Objectives and Methodology

The content of this report, unless cited otherwise, is based on several dozen interviews and group meetings with community leaders and residents in Azacualpa, the Azacualpa Environmental Committee (AEC), the Azacualpa community council (*patronato*), the San Andrés Minas community council (*patronato*), residents of San Andrés Minas, Honduran human rights organizations, local municipal authorities, and representatives of the Canadian consulate in Tegucigalpa. Research was conducted during a series of visits to the mine site beginning in 2010, and most recently in May 2016.

This report analyzes the ongoing issues surrounding the San Andrés mine. It focuses on explaining the context of the land issues – affecting two communities that have already been forcibly displaced, San Miguel and San Andrés, as well as Azacualpa that now faces forced displacement – back to 1997 when Canadian mining companies began operating the mine in La Unión, Copán. The report also provides a chronology of the negotiations that have occurred between Aura Minerals and Azacualpa, and the controversial role that the Honduran government has played as a 'mediator.' The future of Azacualpa remains uncertain as Aura Minerals continues to pursue coerced negotiations that favour the company's interests in expanding it operations over the integrity of the community and its cemetery.

This report would not have been made possible without the contributions of many others. First and foremost, the leaders and members of the Azacualpa Environmental Committee (AEC) and residents of San Andrés Minas provided extensive amounts of information used to complete this report. Annie Bird of Rights and Ecology provided essential assistance, knowledge, and analysis regarding the land rights issues. Annie also extensively edited and commented on the draft text. Special thanks for the support from ACI Participa, the National Association of Non-Governmental Organisations (Spanish acronym ASONOG), the Honduran Institute of Environmental Law (Spanish acronym IDAMHO), Victor Fernandez of the Broad Movement for Justice and Dignity (Spanish acronym MADJ), Jennifer Moore and Jamie Kneen of MiningWatch Canada, and Grahame Russell of Rights Action.

I. Aura Minerals' San Andrés Mine in La Unión, Copán

Introduction: Interest in the Community Cemetery

For many years, Toronto-based mining company Aura Minerals has been attempting to mine the *Cerro Cementerio* or Cemetery Mountain, the location of a 200-year old graveyard used by six communities in the municipality of La Unión, Copán, through its Honduran subsidiary Minerales del Occidente (Spanish acronym MINOSA).

If mining is undertaken in Cerro Cementerio, it would render unstable and thus uninhabitable the area of an adjoining mountain where the town of Azacualpa is located. According to community leaders in La Unión, interactions with company representatives indicate that Aura Minerals is also interested in expanding its operation into the community, which would result in the forced displacement of approximately 400-500 families living in Azacualpa.

An agreement signed in 2012 between Azacualpa and Aura Minerals, which was presented with the intention of relocating the cemetery, outlines a housing relocation project for the entire community. The issue of cemetery displacement may be being used as a pretext to displace Azacualpa, but this is not being made explicit by Aura Minerals or the Honduran government. By August 24, 2015, the expiry date of the agreement, Aura Minerals had fulfilled approximately 5% of its commitments. Realizing that the mine had continued to expand, the community decided to take action to protect the integrity of their cemetery and community.

The San Andrés open pit gold mine, now owed by Aura Minerals, has been operating since 1997, passing through the hands of three different Canadian mining companies; Greenstone Resources (1997 to 2000), Yamana Gold (2000-2009), and Aura Minerals (2009 to present). As the mine has expanded over the years, it has forcibly displaced at least three communities – San Andrés Minas, Plantanares, and San Miguel – as well as the cemetery of the community of San Miguel. The 200-year old Cerro Cementario graveyard will be the second cemetery affected by the expansion of the San Andrés mine.

In order to achieve the forced displacement of Azacualpa and mine the cemetery, Aura Minerals are employing tactics including criminalization, malicious prosecution, threats, and violence that will enable their operations to continue. The company has not purchased the land it has mined and not adequately consulted the six affected communities according to Honduran law. It has not followed basic protocols, like seeking informed consent and respecting land tenure relating to the forced displacement of communities with such egregious disregard that it can only have been possible with the cooperation of agencies of the Honduran government, cooperation whose most logical explanation would be corruption.

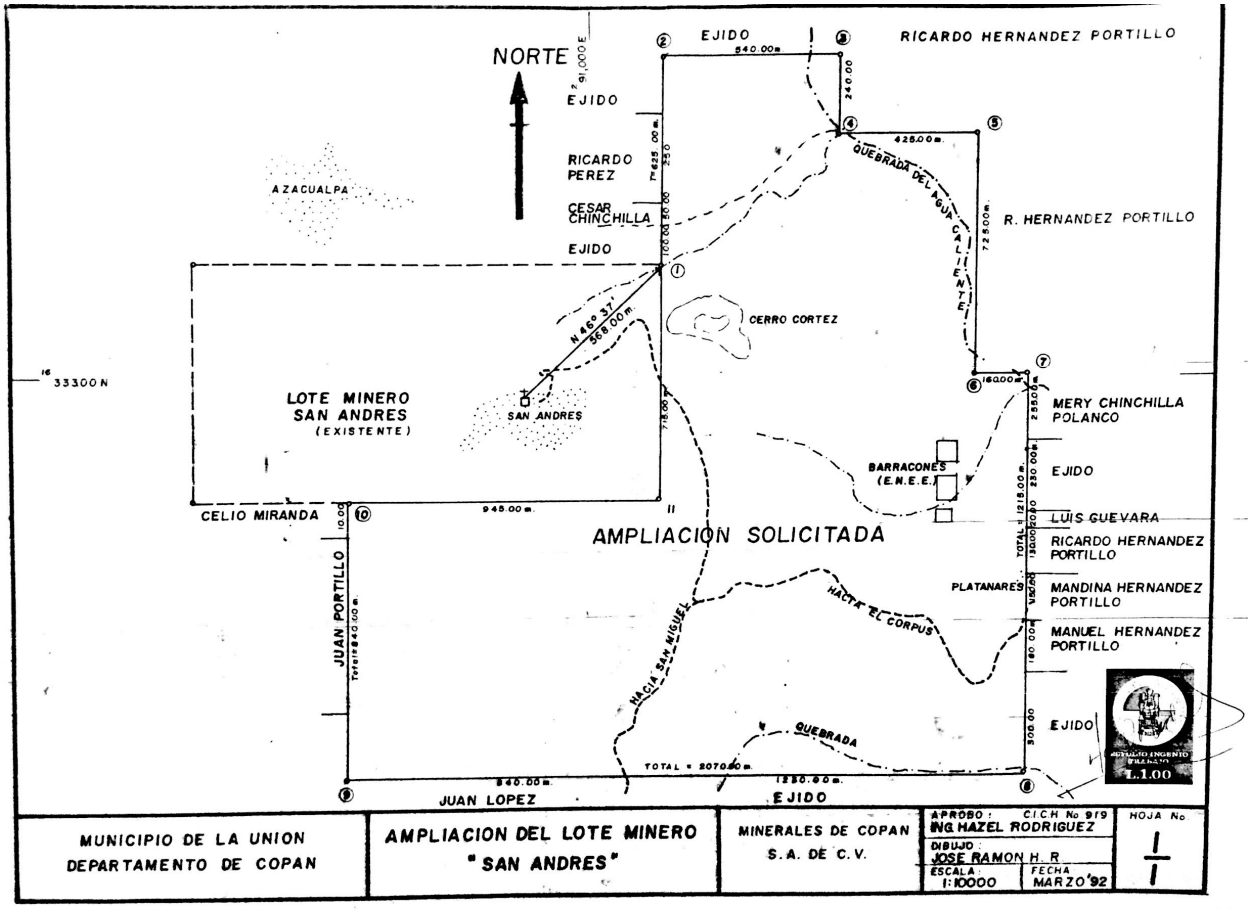
On May 5, 2016, the Azacualpa Environmental Committee (AEC) began a new dialogue with Aura Minerals taking up some of the points included in the 2012 agreement, but also seeking a solution to the issue. Despite the community's efforts to negotiate in good faith, Aura Minerals continues to mislead the families of Azacualpa and refuses to accept conditions proposed by the AEC on behalf of the community in the dialogue. To date, the mining company and the Honduran government (that is acting as 'mediator') have failed to respect a new 10-day dialogue process that expired in mid-May. To date, the future of Azacualpa and their cemetery remains uncertain.

Concealing Land Rights and Violating the Right to Consultation

The municipality of La Unión, Copán, has significant gold deposits and had been the site of small-scale mining since the Spanish colonial presence in the country. The community of San Andrés Minas has a long history of artisanal mining and many families settled in the area for this reason. The long history of San Andrés Minas and the founding of surrounding communities like Azacualpa, explains the old *ejidal* title dated 1838 even before the municipality of La Unión and the state of Honduras were founded.

On January 27, 1983, a 100-hectare metallic concession was granted for 40 years to a small-scale mining company called Compañia Minerales de Copán. The concession specifies that the company must leave: "a) A zone of protection of two hundred (200) metres, to one and the other side of the road that crosses the zone and b) A belt as well of two hundred (200) metres around the town of San Andrés."

In 1991, an expansion of 200 hectares was requested. In the government documents that analyse the expansion request, there are various recognitions of the *ejidal* land titling of San Andrés and property held by individuals from the community that is likely located inside the *ejidal*. The extension was approved and entered into effect on November 16, 1991. Six years later, in 1995, Canada-based mining company Greenstone Resources purchased the Compañia Minerales de Copán. The company acquired the concession in 1997.



The approximate boundaries of the original 1983 concession (the small rectangle to the left) and the requested expansion ("Ampliación Solicitada").

In 1998, Greenstone Resources forcibly displaced the community of San Andrés (See section III) and violated the conditions of the 200-metre buffer zone established in the 1983 concession. Prior to the displacement, old San Andrés was located between the cemetery now being protected by area residents, and the community of Azacualpa. The area that the cemetery occupies was once part of the old San Andrés prior to its displacement when the concession was granted in 1983.

For years, mining representatives, municipal authorities and operators in the justice system have abused their power, spreading false information about land rights. Community residents are told by government authorities that the concession for sub-soil mineral rights conferred to the company gives it rights to the land on top of the minerals. This has generated confusion and uncertainty amongst town residents with regard to their land rights within the area of the concession, including the area where the cemetery is located. At no time was the community of San Andrés made aware that the original 1983 concession included a buffer area of 200 metres around the town where mining was not permitted.

Like most small towns in Honduras, the majority of the land is held under communal title known as an *ejido*. *Ejidos* are generally private land titles that are collectively owned by communities, municipalities or groups of individuals. Within these collective land titles, individual rights holders hold private titles to possession rights. Transfer of these titles are normally witnessed by municipal authorities or private lawyers.

The communities of Azacualpa, San Andrés Minas, La Ceiba, Toreras, Esquin, and El Cedro are inside an *ejido,* an area over which community of San Andrés Minas was granted a land title on July 8, 1838.[1] This means that the communities living inside the *ejidal* land and San Andrés were given communal ownership of the land prior to the founding of the Honduran state later in the same year on November 8, 1838. Honduran law explicitly recognizes titles granted prior to the independence of Honduras.

There are many laws relevant to the 1983 and 1997 sub-surface mineral rights concessions, the impact of mining on the region, and the land on which the sub-surface concessions are located. The legislation in place to grant and monitor mining concessions at the time of the 1983 100-hectare concession and the 1991 200-hectare expansion was the 1885 Mining Code, which was replaced by the 1998 Mining Law.[2]

It is likely that within the *ejido*, land not subject to individual ownership or possession such as collectively owned millennial forests, other legislation in place at the time would have limited or rendered invalid the concession. The 1990 Municipal Law authorized municipal governments to extend titles to all rights holders within municipal *ejido*, like the San Andrés *ejido*, and converted collective areas of *ejidos* not in the possession of any individual into the property of the municipal government. It is important to note that *ejidos* granted prior to the creation of municipal governments or the 1990 Municipal Law, were not necessarily the property per se of the municipal government. Rather, they are communal titles under the tutelage of authority figures, which were most often, but not always, understood to be the Municipal government, as is the case in San Andrés. The 1998 mining law gives mining concession holders surface rights to unused state land. This condition would not apply either to *ejidal* lands or to municipally owned lands. The 1998 mining law obligates concession holders to acquire surface rights to private property where concessions are located. If the State of Honduras had determined the authority and need to strip them of their land rights, it would have been obligated to follow the procedures outlined in the 1914 Expropriation Law. This would include declaring the use of the land a necessary public utility, establishment of a fair price, and payment of that price as compensation for what is being transferred or expropriated.

According to the Municipal Law and the 1998 Mining law, the expansion of the San Andrés mine would require the mining company to obtain permission of the municipality. However, by law, the municipal government is required to consult with communities that would be affected by the use of *ejidal* land when the land will be used for projects that impact the environment and national and municipal property under public use, as per the Municipality Law of Honduras (articles 19, 32, 35, 36 and 72), the Honduran Constitution, and International Declarations such as Principle 10 of the Rio Declaration on Environment and Development. According to the mayor of La Unión, the *ejidal* lands where the San Andrés mine is operating were never purchased from the municipality[3]. Since 1990, mining expansions on municipal *ejidal* land were made under the ownership of Greenstone Resources (1997 to 2000), Yamana Gold (2000-2009) and now, Aura Minerals (2009 to present). Since 1998, with one sole exception, no such consultations of affected communities have taken place.

On January 11, 2015 the community of Azacualpa held a town hall meeting *(cabildo abierto)*, or referendum, in which they declared that they were against the closure of the cemetery. Municipal authorities were present during the consultation and signed the community's legal declaration acknowledging the position of the residents of Azacualpa.

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1 The *Ejidal* land title of San Andrés from July 8, 1838 was acknowledged and mentioned in a document of the Ministry of Health, September 24, 2014.

2 The 1998 Mining Law was approved on November 30, 1998 and became active on February 6, 1999.

3 Meeting with Serafín Tabora, mayor of La Unión, Copán. February 18, 2016.

In the case of the San Andrés mine, Honduran laws regarding management of the San Andrés *ejido* and mining operations since 1990 (the year that *ejidal* lands were transferred to municipal governments) were violated. If the lands under exploitation are municipal lands, as the mayor and area residents assert, the mine is almost certainly operating illegally, and has done so throughout its ownership by Canadian mining companies since 1997. If mine acquired permission of some kind to exploit municipal lands, which does not appear likely, the 2015 *cabildo abierto* in Azacualpa would likely undo municipal authorization for the mine expansion.

Attempts to Forcibly Evict Azacualpa and Relocate the Cemetery

In 2012, Aura Minerals began negotiations with residents of Azacualpa to seek permission: a) to exhume bodies in the cemetery and relocate them, and b) to relocate all residents of Azacualpa to an area approximately eight kilometres from the community's current location. The pretext for negotiation of the agreement is in relation to cemetery relocation. However, the agreement largely details a relocation plan for the entire community of Azacualpa and makes little mention of the protocols and procedures for cemetery displacement.

At no time during the 2012 or current, ongoing negotiations were other affected communities and villages including La Ceiba, Toreras, Esquin, San Andrés Minas, and El Cedro, consulted about the displacement of the cemetery where they also bury their loved ones. It is suspected that the sole focus of the negotiations with Azacualpa, rather than with all communities that use the graveyard, is because the mining company wants to displace the entire community of Azacualpa, and that negotiations relating to the cemetery are a distracting, although serious, pretext.

Initially, the majority of town residents opposed relocation of the community for many reasons, among those being that the principal source of income for the community is agricultural production on a nearby mountain. Relocation would seriously impair the viability of continued production on these lands.

The San Andrés mine from the edge of the Azacualpa graveyard. The relocated community of San Andrés can be seen in the distance. All photos by Karen Spring.

While Aura Minerals was in talks with Azacualpa residents, on May 22, 2012, the National Office of Regional Sanitation under the Ministry of Health conducted an inspection of the cemetery and together with the mayor of La Unión, elaborated a series of recommendations. One of the recommendations was the closure of the cemetery as a result of poor public health and geological conditions. The communities dispute this conclusion, believing it to be an abuse of authority with the objective of assisting Aura Minerals in its attempts to remove the cemetery. Municipal authorities had agreed to comply with recommendations made by the inspection team, but did not inform the communities who continued to use, access and bury family members in the graveyard.

On July 13, 2012, Aura Minerals convened a meeting with the Azacualpa community, in which it projected an impressive audiovisual presentation, promising large, well-constructed homes that the community members themselves would be employed to construct.

Misinformation regarding land rights and the company's clear influence over the government are cited as the reasons that on July 24 2012 Azacualpa residents signed an agreement with the Aura Minerals' general manager, U.S. citizen Monty William Reed. In the agreement, the community accepted cemetery relocation on condition that the company build and donate 396 houses, with a detailed description of their size, the size of the yards, building materials, and community projects to be installed on the designated land (See Appendix 1 for a summary of the 2012 agreement).

In the 2012 agreement, the community committed to allow the relocation of their cemetery to a site near the proposed resettlement community if Aura Minerals complied with their commitments. This agreement was signed by the mayor of La Unión, elected Azacualpa representatives, and Aura Minerals. It is significant that at no point in this agreement is there recognition of the land rights of town residents or an overview of the town's rights involved in a community resettlement plan, the agreement refers only to a donation by the company. This is in keeping with the pattern of misinformation about community rights to the land.

Azacualpa cemetery on Cerro Cementerio. The structures are above-ground graves but the cemetery includes many buried grave sites that are not marked by tombstones. The number of unmarked graves makes it extremely difficult for non-family members to locate their loved ones who have been buried there with certainty. As Aura Minerals is simply requesting one signature of any family member and not identifying the next of kin, identifying each gravesite with certainty would be very difficult.

As outlined in the 2012 agreement, Aura Minerals agreed to complete Stage 1 by August 14, 2013 (See Appendix 1). When the company failed to do this, in September 2013, Aura Minerals requested permission from the Azacualpa community council (*patronato)* for an extension that was later granted with the condition that the mine not come within 200 metres of the cemetery. On September 17, 2013, Aura Minerals' general manager, US citizen Monty William Reed sent a letter to the Azacualpa community council thanking them for the extension agreeing to respect the 200-metre parameter around the cemetery.

The housing project that Aura Minerals partially built involves a series of small houses in close proximity to one another. The piece of land chosen by Aura Minerals is rocky and not ideal for agriculture. Families that grow coffee, beans, and rice to sell and consume would have difficulties finding arable farmland around the housing project, and according to community residents, all lands in the immediate area are owned by large land owners that would charge much higher prices to *campesinos* interested in renting land to grow crops. The 120 houses that have been built do not resemble model 1, 2 or 3 outlined in the 2012 agreement and are far different from homes that were modelled in the audiovisual presentation that Aura Minerals presented to the community in 2012 to entice residents to sign (See Appendix 1 for description of different house models outlined in agreement). The housing project was also not built by workers hired from the community of Azacualpa, which was one of the conditions promised by Aura Minerals.

The 120 houses built as part of the 2012 agreement between Azacualpa and Aura Minerals.

Azacualpa Mobilizes to Protect Its Cemetery

By April 2014, Aura Minerals was clearly not in compliance with conditions outlined in the 2012 agreement, and area residents observed that Aura Minerals' mining operations were advancing inside the 200-metre limit. These activities put the geological integrity of the cemetery at risk. In response, neighbours undertook a two-week protest blocking the machinery that was destroying the mountain and approaching the edge of the cemetery. The protesters were gassed and beaten by security forces. Nineteen people were arrested and were charged by the mining company with land usurpation and illegal protest.

The mayor of La Unión affirms the protest occurred on municipal land, claiming he told prosecutors in Santa Rosa de Copán not to charge the protestors.[4] They were nonetheless charged and granted conditional release requiring them to travel every two weeks to the town of Santa Rosa de Copán, over an hour of travel and a significant expense for poor families.

The blockade at the base of Cerro Cementerio where Aura Minerals comes closer and closer to destroying the rest of the mountain. The Azacualpa graveyard is located at the top.

In an apparent reaction to the increasing opposition to the expansion of the mine, another attempt was made to close the cemetery. On August 19, 2014, the Ministry of Health (MOH) from Santa Rosa de Copán did a follow-up of their visit and recommendations made two years prior, in May 2012. They allegedly inspected the graveyard and later on September 24, ordered the 'definitive technical closure' of the cemetery. According to the MOH, the graveyard needed to be closed as a result of the "presumption of a health risk and severe damages to the health of people and the environment," mentioning that they allegedly saw exposed human remains during the inspection. The legal justification for the MOH's authority on the matter and their declaration were Articles 61 and 63 of the Regulation for Cemeteries and Related Public and Private Activities (*Reglamento de Cementerios y Actividades Conexas Publicas Privadas*), a law that had never been passed, approved or ratified by the Honduran National Congress.[5] At no time between 2012 and 2014 was the Ministry of Health concerned about the condition of the cemetery. Throughout the negotiations and to date, the five communities continue to bury and visit their family members in the graveyard. On January 11, 2015, the community of Azacualpa held a *cabildo abierto*, or referendum, in which they rejected closure of the cemetery.

On May 14, 2015, community members from Azacualpa filed a complaint for damages against Aura Minerals with the public prosecutors' office, explaining that the proximity of the mining operation to the cemetery puts the cemetery at risk of collapse, and that homes in Azacualpa are being damaged by dynamite explosions. No investigations of their complaint has been undertaken.

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4 Meeting with Serafín Tabora, mayor of La Unión, Copán. February 18, 2016.

5 Letter to Mayor of La Unión, Copán, Serafin Antonio Tabora, submitted by the Environmental Law Institute of Honduras (IDAMHO) on October 10, 2014.

As mining toward the cemetery continued, on November 9, 2015, community members began blocking mining equipment's advance toward the cemetery. At that time, the mine was approximately 30 to 40 metres from the edge of the graveyard.

In another attempt to have the cemetery declared inadequate and subject to closure, Aura Minerals solicited an inspection of the graveyard by the Permanent Commission for Contingency Plans (COPECO in Spanish) citing their "concern of the existence of a geological fault close to said cemetery" and that the area may be in danger. On July 4, 2015, an inspection in the area was conducted with the intention of investigating the fault and its impact on the integrity of the cemetery. In the COPECO report issued after the inspection on July 28, 2015, the institution confirms the presence of cracks and openings in the region of the graveyard and recommends the "relocation of the cemetery as soon as possible to another location" and that a "security fence be constructed to avoid people's access to the cemetery and to avoid more burials." The report makes brief mention of inhabitants' complaints of the mine's use of dynamite but does not examine or analyse in any detail the impact that the dynamite blasts may have in the area of said geological fault or if the discovered cracks in the earth are a consequence of decades of open pit mining in the region.

In 2015, residents of Azacualpa reported that Aura Minerals had hired U.S. contractors to provide the company with recommendations and guiding principles about cemetery relocation. The experts allegedly conducted a series of meetings with government and local authorities, lawyers, and community members. Before leaving Honduras at the end of their first visit, the U.S. contractors said that they would return. But community leaders never saw them again. Aura Minerals has never shared the recommendations of the U.S. contractors nor published any relocation plan for both the cemetery and the community.

Under the terms of the 2012 agreement between Azacualpa and Aura Minerals, the mining company was required to have completed construction of 396 houses by August 14, 2015; the last of three deadlines established in the 2012 agreement, which were not met. As Aura Minerals continued to pressure area residents to allow for the relocation of the cemetery, and criminalized those that protested the encroachment on the cemetery, the company failed to fulfil its end of the deal. Azacualpa leaders lost faith that the company was acting in the community's best interests, as Aura Minerals' representatives had repeatedly told them.

Criminalization and Malicious Prosecution

While maintaining the blockade at the base of Cerro Cementerio throughout November and December 2015, community members reported that Aura's private security company, *Servicios Especiales de Seguridad (SESER)* used drone surveillance to take pictures of leaders and to intimidate those at the blockade. SESER is a well-known and feared security company in western Honduras, specifically in Santa Rosa de Copán. It is owned and managed by Angel Rene Romero, a former military commander with strong connections to the current party in power, the National party. In the 1980s, he was also involved in Battalion 3-16, an intelligence unit inside the Honduran military responsible for grave and well documented human rights violations specifically against political opponents of the government.

In mid-November 2015, multiple leaders got word that the public prosecutor's office was hoping to press charges against them. Seven members of the Azacualpa Environmental Committee went to investigate on November 24, 2015 at the Public Prosecutors office in Santa Rosa to ask whether they were subject to an arrest warrant related to the protest. Voluntarily representing themselves in this manner would have allowed them to avoid arrest in favour of other measures. However, the prosecutors refused to see them.

As they were leaving Santa Rosa that evening, all seven were arrested and three – Orlando Rodriguez, Genaro Rodriguez and Miguel Lopez – were forced to spend the night in prison. Three additional community leaders were charged at the same time. All six appear to have been selected for prosecution as

a result of the leadership positions they hold in the communities. As a result, they have to travel every two weeks to check in with the court in Santa Rosa until the trial takes place.

Negotiation Under Coercion by Government and Aura Minerals

On December 2015, U.S. citizen and Aura Minerals representative Monty William Reed attempted to dialogue with the community after telling them that they had to suspend the blockade at the base of Cerro Cementerio because the company "couldn't negotiate with a gun to its head." The community lifted the blockade after 19 days and on December 16, 2015 held a meeting with members of the Azacualpa council members (*patronato)* and the AEC. Aura Minerals took the position that the 2012 agreement was no longer valid and that it should be forgotten. Monty Reed William promised that the negotiations would begin within 15 days. The community waited almost four months, showing up at meetings organized by the Honduran government and Aura Minerals, to find that they had been cancelled. When it became obvious that the negotiations were never going to happen, on March 29, 2016, Azacualpa residents decided to return to the blockade at the base of mountain.

From January to March 2016, various meetings were held with members of Aura Minerals, the Honduran government and representatives of Azacualpa as part of a "negotiation process" while Aura Minerals ignored the demands of the community. Participants in the meetings include: MINOSA's general manager Monty Reed William, the mayor of La Unión Serafín Tabora, and various Honduran government institutions including the Honduran Institute of Geology and Mines (INHGEOMIN); the Ministry of Natural Resources and Environment (SERNA); the National Honduran Human Rights Commissioner (CONADEH); the Ministry of Human Rights, Justice, Government, and Decentralization; and Rolando Dubón Bueso, the President of the Mining Commission of the Honduran National Congress.

In all meetings, Azacualpa maintained its position that they were unwilling to allow Aura Minerals to destroy their cemetery and that they wanted the company to end operations and leave. With their sights set on Cerro Cementerio, Cerro Los Hornillos (a mountain adjacent to Cerro Cementerio), and the mountain where Azacualpa is located, Aura Minerals ignored what the community is demanding, and instead sought other tactics to continue expanding their operations.

Throughout the negotiations and to date, Honduran authorities – particularly the mayor's office – continue to assert that Azacualpa does not hold land rights to the cemetery. The company engages individual families in Azacualpa about their family members buried in the cemetery, but exclude entirely the topic of the *ejidal* land title and decisions about the future of the graveyard, which require community consultation and consent.

Local authorities, including the Azacualpa council (*patronato)*, the elected community leadership required to act on behalf of the interests of the community, and the mayor of La Unión, are being accused of acting in collusion with Aura Minerals. In a series of actions coordinated by the AEC, community members have taken action to pressure local authorities to act in their best interests, as they are legally required to do. Yet, local authorities continue to support the interests of the mining company.

As reported by the AEC, members of the Azacualpa council have at least one active commercial supply contract with Aura/MINOSA.[6] The President of the council is also an active municipal counsel member, a

6 James Bannatine, President and CEO of Aura Minerals, mentions this contract before the Standing Committee on International Trade during Parliamentary hearings on April 29, 2014: "We recently had a village contractor win the lining job of a new gold leach pad. The lining job is 10 hectares of a big leaching pad that has to be lined with a rubber mat. It's a lot of manual labour, but this little, tiny village contractor won that contract by organizing the local villagers. He got an engineer from Venezuela to come and help with the technical side. It was a big victory for us on local contracts." (http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=e&Mode=1&Parl=41&Ses=2&DocId=6550622) This "victory" has assisted in pitting the Azacualpa *patronato* against the community they are allegedly representing.

clear conflict of interest. When Aura Minerals has been "forced" to close operations while hundreds of community members have blocked the mine's access to the mountainside at the base of the cemetery on a few occasions, members of the council, fearing personal economic loss, begin to apply heavy pressure and sometimes threaten AEC leaders to end the blockade.

Recognizing this conflict of interest, Azacualpa held a community assembly on April 10, 2016 at the base of Cerro Cementerio to vote to legally remove the council from their duties. New representatives were elected. On April 12, as Honduran law legally requires, Azacualpa and the new community council went to the municipal offices to register their new representatives. Serafín Tabora, the mayor of La Unión, refused to recognize the community's decision claiming that another assembly had to be held to verify the results. On April 22, another widely attended community assembly was held in the Azacualpa community centre and the results of the election on April 10th were confirmed. The mayor did not attend the vote and to date has not recognized the newly-elected council.

Community tensions related to the mining operations were also apparent when a nine-member Canadian delegation including First Nations women leaders, lawyers, human rights and solidarity activists attempted to visit Azacualpa on April 17, 2016. According to the group's urgent action:

> *On their way to visit the area this morning, however, an estimated 180 mine workers blocked the public road leading to Azacualpa, falsely alleging that the delegation wants to see the mine shut down. The demonstrators are reportedly armed with machetes, sticks and rocks. A local mine manager has also been observed at the project, as well as a local reporter known as being highly partial to the company's position. Police are present, including the chief of police for the area, but have not made any effort to move the demonstrators off the road and to ensure safe passage along the public throughway. The regional delegate for the National Human Rights Commission has been called into mediate.*[7]

After a three hour discussion with the Chief of Police in the Department of Copán, Alfaro Martinez, the departmental head of the Honduran Military, Major Zaldaña, and Aura Minerals employees, the delegation was finally able to proceed to the site of the community blockade. Community residents described health harms, infrastructural damages caused by the dynamite blasts, and their efforts to protect their cemetery to the visitors.

The local media in the closest major city of Santa Rosa de Copán, approximately 1.5 hours from La Unión, has played a role in the tensions within the communities. In particular, one television journalist, Wendy Guerra who claims to be a representative of Aura Minerals has been publicly denounced by a Tegucigalpa-based organization that defends freedom of expression, for threatening other local journalists who speak negatively about the mining operations. According to C-LIBRE, three journalists received text messages and verbal messages from Guerra threatening that the mining company will suspend assistance to the local station if the journalists speak negatively about the company.[8] Publicly, Aura Minerals has denied any relationship to Guerra, but local residents in Santa Rosa de Copán and La Unión believe that Guerra works with the mining company and directly or indirectly receives contracts to coordinate their local business events, logistics, and public relations.

Current and Continuing Negotiations: Aura Minerals' Divisive Tactics

On April 5, April 7, April 11 and April 15th, 2016 three leaders of the Azacualpa Environmental Committee, Genaro Rodriguez, Orlando Rodriguez, and Miguel Lopez (all of which had had charges

[7] http://miningwatch.ca/blog/2016/4/17/urgent-action-what-does-aura-minerals-have-hide

[8] http://www.clibrehonduras.com/alerta/representante-de-minera-amenaza-periodistas-en-el-occidente-de-honduras

pressed against them in April 2014 and November 2015) received death threats by text message to their personal cell phone. The timing of the messages, in at least two occasions, occurred while the leaders were meeting with the local non-governmental organization, ASONOG, in Santa Rosa de Copán, the same office that the leaders were leaving when arrested in November 2015. The messages threatened the leaders' families, telling them to lift the blockade, and that they would regret it if they did not obey.[9]

On April 8, in the early hours of the morning, Aura Minerals' trucks and excavators attempted to enter the area at the base of the mountain where Azacualpa residents maintained the blockade. The company's machinery and workers were accompanied by approximately 60 military, police, and military police that were heavily armed and dressed in riot gear. The community spent hours explaining to the authorities the reasons why they were gathered at the base of the mountain protecting their cemetery. Later the same morning, the security forces and Aura Minerals left the area.

Two days later on April 10, 2016, the mayor of La Unión presented a proposal drafted by Aura Minerals, at the site of the blockade at the base of *Cerro Cementerio*. The proposal sought to obtain the signatures of an individual family member willing to agree to the exhumation of a loved one from the cemetery in exchange for 80,000 Lps [$3,500 USD] per family, paid in two instalments: 50% before the exhumation and 50% after the entire cemetery is relocated.[10] Upon obtaining a single signature, the individual commits the entire family to not only allow exhumations from the cemetery, but also to leave their home and move to a location approximately eight kilometres from Azacualpa to a piece of land that Aura Minerals has proposed as the Azacualpa relocation site. Local residents say that 80-90% of the community rejected the proposal.

At the same time that the proposal was presented to the community, the AEC publicly denounced that employees of Aura Minerals were inside the offices of the Registry of Persons (RNP) Honduran National Registry in Santa Rosa de Copán – the closest major city to La Unión – gathering private information about the families of Azacualpa, specifically those that have buried their family members in the community cemetery.[11]

According to photos and public complaints made by the AEC, it seems clear that Aura Minerals was trying to obtain personal information about the deceased so that the company can approach families on an individual basis and offer them money to agree to move their loved ones. It is believed that Aura's strategy is to obtain the consent of a family member – not necessarily the next of kin – and relocate individual bodies. As the cemetery is destroyed grave-by-grave, the rest of the families will face tremendous pressure to relocate.

On May 5, 2016, the 38th day of the community's blockade at the base of the mountain, Aura Minerals' representatives returned with a proposal for Azacualpa. The company agreed to enter into dialogue with the community based on the main points in the 2012 agreement. The community accepted. A timeframe of ten days for a negotiation and dialogue process was set which would allow families in Azacualpa to be consulted as to whether they accept cash payments (in two instalments as discussed above) or one of the 120 constructed houses that Aura Minerals built in 2012-2013.

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[9] For example, a message to Genaro Rodriguez on April 5, 2016, "oh yeah, son of a bitch, when are you going to end the blockade, if we end up without work, you all will regret it, you, Orlando, and the imbecil 'pitajaya' (referring to Miguel Lopez's nickname). [In Spanish, "*aja Viejo hijo de la gran puta cuando van a quitar la guelga si nos qedamos sin trabajo se ban a arapentir vos el Armando y el inbecil dl pitajaya*")

[10] The company would withhold the second installment until the entire graveyard has been relocated as a strategy to pressure those that do not agree. If one family refuses to allow the relocation of their family member, the second family will not receive their second 40,000 Lempira (Lps) installment.

[11] http://www.pasosdeanimalgrande.com/index.php/en/contexto/item/1331-grave-denuncia-empresa-minera-minosa-sustrajo-actas-de-defnuncion-de-registro-civil-en-su-afan-de-destruir-cementerio-en-comunidad-de-azacualpa-copan

So far, the new dialogue process is failing. Aura Minerals has been reluctant to provide necessary information to the community such as, a) the list of families that have been consulted, and b) the house model that has been assigned to each family. Community leaders have also requested design plans for the water and sewage system that will be installed as part of the housing project. These have not been disclosed.

While the dialogue is taking place, Aura Minerals is approaching individual families offering them cash payments of 40,000 Lps (USD $1,700) upfront if they agreed to permit the exhumation of their loved ones from the cemetery. Approximately 20 individuals from different families[12] have given permission, but community leaders report that Aura Minerals' approach is intentionally generating serious conflicts within families.

In order to obtain an individual family member's signature, Aura Minerals sends a lawyer to a home, obtains the signature of one family member that is in agreement with the exhumation and displacement. The company is not seeking the next of kin for permission or to obtain consent from the entire family, even though all members will be affected. One Azacualpa resident noted that his alcoholic father signed and agreed to allow Aura Minerals to exhume three family members. The rest of the family discovered this when the father reported having received 40,000 Lps (USD $1,700) from the company.

This strategy has led to violence and threats amongst family members that come home to find that one person in the household granted permission to Aura Minerals to relocate their loved one(s) from the cemetery.

On May 30th, fifteen days over the agreed upon ten-day term to reach an agreement, the AEC sent a letter to Aura Minerals and the Honduran government expressing that they were not living up to basic elements of the newest 2016 dialogue process. Aura Minerals had cancelled meetings last-minute (a difficult issue for Azacualpa residents who have to travel 1.5 hours to where the dialogue is taking place); and the company has altered their representatives at the negotiating table, amongst other violations.

Aura Minerals appears to have the same attitude toward community consultation and dialogue. Having violated the 2012 agreement, the company is failing to demonstrate good faith and willingness to reach a fair agreement with Azacualpa in current negotiations. Area residents are becoming increasingly convinced that the San Andrés mine should be closed and Aura Minerals should end their operations. The coming weeks will be telling of the future of Azacualpa and the cemetery.

[12] There are between 400 and 500 families in Azacualpa.

A Google Earth image of the San Andrés mine, La Unión, Copán, Honduras. Three locations are marked on the map: the community of Azacualpa where 396 families live; the cemetery that is now approximately 50 metres from the edge of a large, artificial cut in the mountain from the mining operation; and the community of San Andrés Minas that was displaced in 1998. San Andrés Minas was previously located in the area between Azacualpa and the cemetery.

II. The History of Canadian Mining and Conflict in San Andrés

Knowledge of the long history of the San Andrés mine is important to understand the context in which Aura Minerals is expanding its operations and how decades of mining in La Unión has impacted local residents and the environment.

As previously mentioned, Greenstone Resources purchased the small-scale Compañia Minerales de Copán in 1995 and then purchased the San Andrés mine in 1997. The date of purchase corresponds to a moment in the political and economic environment in Honduras when transnational mining companies became increasingly interested in mineral deposits and when industry began pushing for a new industry-favourable mining law. Greenstone Resources declared bankruptcy in 2000 and ended operations with a debt of two million lempiras owed ($100,000 USD) to the municipality of La Unión and with a recently displaced community in limbo. Yamana Gold, another Canadian owned mining company, purchased the mine in 2000. Under the ownership of the Canadian companies that operated the San Andrés mine prior to Aura Minerals, various abuses were reported and many remain unresolved today.

Open pit cyanide heap leach gold mines are one of the most destructive types of mine in the world.[13] In the case of the San Andrés mine, this has involved massive deforestation of hundreds of hectares of millennial forests, mountain top removal, and extensive use of dynamite to blast the rock that has caused damage to local infrastructure including houses, churches and schools.[14] For many years, communities located around the mine have also reported illnesses (similar to those reported in Siria Valley where Canada's Goldcorp operated from 2000-2008) including skin rashes, hair loss, eye problems, and

[13] http://www.brilliantearth.com/dirty-gold-mining-methods/

[14] Damages caused to local infrastructure was extensively outlined in testimonies of Azacualpa community members in their damaged homes.

mysterious types of cancers.[15] The following are abuses reported under the ownership of Canadian mining companies.

Greenstone Resources (1997-2000)

In 1995, Canadian company Greenstone Resources purchased Compañia Minerales de Copán, and in 1997, Greenstone Resources obtained the rights to the San Andrés mine.

In 1997 and 1998, two communities were displaced in La Unión to make way for the open pit gold mining operations started by Greenstone. The communities of San Miguel and San Andrés Minas. San Miguel was displaced first and later, San Andrés Minas. According to local residents, San Miguel was never relocated under the same conditions as San Andrés and has largely disappeared. In some instances, Greenstone purchased and then destroyed houses of families willing to leave the area, but some families remained and refused to leave. They still live in San Miguel in close proximity to the heap leach pads.

The community of San Miguel before it was largely displaced. Few houses remain.

The San Miguel cemetery was never formally relocated and local residents say that some exhumations were carried out while some graves were destroyed by machinery used to dig the heap leach pads. Mine workers from the local communities have reported finding human skeletons amongst the rubble and excavations on-going today. What remains of the old San Miguel cemetery is again under threat as Aura Minerals hopes to expand the size of the heap leach pad.

In conversations with the mining company in 1997 and 1998, the community of San Andrés Minas was pressured to sell their land to the company in exchange for land titles in another location. Community leaders remember the relocation as violent and conflictive. Honduran security forces were sent to La Unión as the relocation was underway. To pressure communities to move, the water source was cut off for several days. In one instance, Wilmer Hernández, a San Andrés resident who refused to be displaced from his home, climbed into the community water tower to stop it from being destroyed as bulldozers attempted to pull it down.[16] Hernández was injured as a result, and suffered serious, life threatening and permanently disabling injuries. The Canadian mine manager who personally drove a bulldozer into the water tower, Gerald Phillips, was charged with attempted murder but never arrested. (Phillips had previously gained notoriety as a manager of the Westray coal mine in Nova Scotia at the time of the explosion that killed 26 miners. Along with another mine manager, Roger Parry, Phillips was charged

[15] http://www.rightsaction.org/action-content/endemic-health-crisis-siria-valley-honduras-caused-assuredly-goldcorp-inc

[16] http://miningwatch.ca/blog/2001/3/5/honduras-worth-more-gold

with manslaughter and criminal negligence but the charges were stayed after a mistrial.) Many of the commitments made to San Andrés at the time were never fulfilled and the community continues to communicate its frustrations with Aura Minerals.

Yamana Gold (2000-2009)

A series of chemical spills and environmental damages were reported and denounced by local communities while Yamana Gold owned the San Andrés mine.

On January 5, 2002, there was a major chemical spill of sodium cyanide (NaCN) into the Rio Lara that flows through the municipality of La Unión.[17] The spill was caused by a valve left open where a pipe had ruptured, and approximately 300-500 gallons of sodium cyanide spilled into the river. In 2004, Yamana Gold was fined for the spill. In August 2007, another spill of 5,700 litres of chemicals were dumped into the Lara River. And again on March 20, 2009, 570 litres of cyanide solution spilled into the Lara River.

Collection pond in La Unión, Copán, located in close proximity to the river Lara.

There were murders and threats against mining opponents in Copán that are believed to be linked to their criticisms and resistance to Yamana Gold's operations:

On November 26, 2003, when television journalist German Antonio Rivas was leaving the news station in the evening in Santa Rosa Copán, he was shot in the head by an unknown individual.[18] It is widely believed that Rivas was murdered for the media coverage he was providing about the cyanide spills and environmental contamination in La Unión.

In the early 2000s, the mayor of La Unión, Copán was assassinated in Cucuyagua. He had taken a position against mining and had refused to negotiate with the mining company. Local residents suspect that his unwillingness to negotiate with Yamana Gold and his firm anti-mining position may have contributed to the reason he was murdered.

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17 http://tragua.com/wp-content/uploads/2012/04/caso_rio_lara.pdf

18 http://conexihon.hn/site/noticia/derechos-humanos/conflicto-agrario-y-minero/inversionistas-mineros-insisten-en-apropiarse

III. International "Standards" for Resettlement

In Parliamentary hearings in Canada on April 29, 2014,[19] Aura Minerals' President and Chief Executive Officer, James Bannantine made brief statements about international standards, known as the Equator Principles, for land acquisition and involuntary resettlement. Although completely toothless and lacking any enforcement mechanism, it is worth briefly examining the Equator Principles, a voluntary agreement in which private companies agree to comply with the safeguard policies of the International Finance Corporation (IFC), the private sector lending arm of the World Bank, in relation to community resettlement. These weak standards are recognized international protocols aimed to minimize or mitigate adverse impacts of physical and economic displacement on affected communities. The objectives of Performance Standard 5 under the Principles involve land acquisition and involuntary resettlement. In short, this Standard aims to ensure that displaced persons are consulted and informed about resettlement activities; that they are adequately compensated; and that their living conditions are improved at the resettlement site(s) relative to their previous conditions (See Appendix 2 for the objectives of Performance Standard 5).

Of the 396 houses that Aura Minerals agreed to construct in the 2012 agreement, only 120 houses were built. The houses, built approximately 10-15 metres from one another, do not correspond to the description of the model types and sizes outlined in the agreement. No church, school, or public community area was built and leaders of the AEC have publicly stated that the houses are inadequate and too small for Honduran families that often house immediate, as well as extended, family members. Families that agree to or are forced to relocate from the current location of Azacualpa will also have difficulties accessing and traveling to attend their farmlands that are accessible from where Azacualpa is currently located, approximately eight kilometres from the new relocation site. If displaced from their current location, AEC argues that the community's social and economic conditions will worsen and many will be forced to leave the area in search of another place to live.

IV. Canadian Government Promotes Mining in Honduras

For years, the Canadian government has played an active role in legitimizing and promoting Canadian mining companies abroad.[20] In Central America, Canadian Embassies have received multiple complaints from communities affected by Canadian mining operations,[21] specifically about the Marlin Mine in San Miguel Ixtahuacan, San Marcos, Guatemala,[22] and the San Martin Mine in Siria Valley, Honduras,[23] and have not taken action to investigate or denounce the harms. In Ottawa, Canadian parliamentary hearings have put the harms and violations of Canadian mining companies abroad on the public record.[24] Efforts to introduce legislation[25] in Canada to monitor and hold Canadian mining companies accountable for their violations abroad have been heavily lobbied against by the mining industry, and voted down.[26]

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19 http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=e&Mode=1&Parl=41&Ses=2&DocId=6550622

20 http://www.miningandexploration.ca/mines/article/government_launches_new_strategy_to_promote_canadian_mining_-abroad/

21 https://nacla.org/article/canadian-mining-still-unaccountable

22 http://miningwatch.ca/sites/default/files/FAQ_What_you_may_not_know_about_Goldcorp_Marlin_Mine_in_-Guatemala_May_2011.pdf

23 http://miningwatch.ca/news/2014/11/10/blood-gold-human-cost-canada-s-free-trade-honduras

24 https://openparliament.ca/committees/international-trade/41-2/24/jennifer-moore-1/only/

25 https://openparliament.ca/bills/40-3/C-300/

26 http://www.theglobeandmail.com/news/politics/mining-industry-lobbied-nine-of-24-mps-who-helped-kill-ethics-bill/article1241708/

In Honduras, Canada's support for its mining companies and other economic interests in the country[27] did not waiver on June 28, 2009, when President Manuel Zelaya was overthrown by the Honduran military. Instead of withdrawing support and denouncing the coup and the well-documented human rights violations and violence that ensued, the Canada government and Canadian companies operating in Honduras acted to legitimize the post-coup regime.

On February 10, 2010, the President of Aura Minerals at the time, Patrick Downey, and other mining and corporate investors accompanied by Canadian Ambassador Neel Reeder visited Honduras.[28] Their focus was to encourage the Honduran government to approve a new mining law given that a moratorium had been placed on mining in Honduras as early as 2006.[29] Because of the moratorium, new concessions were not granted leaving Canadian mining companies interested in starting or expanding operations, out of luck. The business visit to Honduras was conducted shortly after a fraudulent Honduran election in November 2009[30] that sought to legitimize the post-coup regime and whitewash the repression and human rights violations of the coup.

With strong business interests in Honduras and the "right" business environment, Prime Minister Stephen Harper visited Honduras on August 12, 2011[31] and signed the Canada-Honduras Free Trade Agreement (FTA). Two years later, in January 2013, the Honduran Congress approved a new mining law that Aura Minerals' CEO and President James Bannatine said had "a lot of input from Canadian companies and Canadian consultants."[32] His statement reaffirmed what MiningWatch Canada's investigation had found: "the Canadian Embassy, the Canadian Department of Foreign Affairs, and CIDA have all gotten involved in lobbying for and providing assistance toward a law that would be satisfactory to Canadian industry."[33]

Before the Canada-Honduras FTA was passed in the Canadian parliament, a series of hearings were conducted in Ottawa concerning Canada's economic relations, bilateral aid, policies, and the dire human rights situation in Honduras that had largely resulted from the 2009 coup. As part of the parliamentary hearings, Bannantine testified and spoke about Aura's operations in Honduras. Bannantine discusses Aura's corporate social responsibility and adherence to international standards including the Equator Principles: "A big part of management's efforts and our efforts in the region is corporate social responsibility, including environmental and human rights, all of this governed by the Equator Principles, as defined by international finance corporations standards of the World Bank. We are often standard bearers in the countries that we operate in, including in Honduras." As was briefly mentioned previously, this is simply not true. In no way is Aura Minerals conducting their operations in an ethical manner or in compliance with the Equator Principles.

V. Conclusions and Recommendations

Conclusion and Report Findings

1. During almost two decades, representatives of companies operating the San Andrés mine, in concert with Honduran authorities have mislead affected communities in the municipality of La Unión, into

[27] http://www.winnipegfreepress.com/opinion/analysis/blood-flows-where-canadian-capital-goes-371189471.html

[28] http://miningwatch.ca/blog/2010/9/23/military-coups-mining-canadian-involvement-honduras

[29] http://www.coha.org/the-dangerous-path-toward-mining-law-reform-in-honduras/

[30] https://nacla.org/article/tale-two-elections-iran-and-honduras

[31] http://www.straight.com/article-422311/vancouver/tyler-shipley-stephen-harper-strengthens-canadas-ties-violent-regime-honduras

[32] http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=e&Mode=1&Parl=41&Ses=2&DocId=6550622

[33] http://miningwatch.ca/news/2013/1/24/honduran-mining-law-passed-and-ratified-fight-not-over

believing that the mine has the legal authority to summarily take their land. In 2012, Aura Minerals began negotiations with the community of Azacualpa under the pretext of relocating the cemetery. At no time during the negotiations was Aura Minerals or municipal authorities up front about Azacualpa and affected communities' land rights granted via an 1838 *ejidal* land title to San Andrés. At a minimum, municipal authorities are required to conduct community consultations before the mining company is able to acquire surface rights to private property under the 1998 mining law. Legal requirements under the 1914 Expropriations Law or other relevant legislation might be more demanding. To date, communities have not had access to complete information nor have municipal authorities undertaken a community consultation.

2. On January 11, 2015, Azacualpa held a legally binding town hall meeting (*cabildo abierto)* under articles 19, 35, and 36 of the Municipal Law, concluding that residents are against the closure of the community graveyard. The *cabildo abierto* decision would effectively annul Aura Minerals' right to expand the open pit gold mine into the cemetery – if it were enforced by the Honduran government.

3. Misinformation regarding their land rights and the company's clear influence over the government are some of the reasons that Azacualpa residents signed the 2012 agreement with Aura Minerals. The cemetery was used as the pretext for the 2012 agreement that nevertheless focused almost exclusively on a community relocation plan. Aura Minerals is not explicit stating that they are relocating the 400-500 families in Azacualpa, but it is strongly suspected that the company are using the negotiations as a way to mislead or coerce the community into agreeing to being displaced – in other words, to forcibly displace the community. Furthermore, it is feared that exhuming and mining Cerro Cementerio will geologically weaken the adjacent mountain where Azacualpa is located, where infrastructural damages of many houses have already been reported to the company and the Honduran government.

4. The concession to the San Andrés mine was granted in 1983 and clearly states that the concession holder must respect a belt or buffer area of 200 metres from the town of San Andrés. The displacement of San Andrés in the late 1990s by Greenstone Resource violated the terms under which the concession was granted. Aura Minerals' expansion plan into the cemetery, once part of San Andrés but used by many surrounding communities, is considered to be illegal.

4. Over a period of several years, national and local Honduran government authorities have abused their authority and used public resources to further the interests of Aura Minerals. The public prosecutor's office has failed to investigate complaints presented by residents of Azacualpa about the mine's activities; the mayor of La Unión, Serafin Tabora, has refused to recognize a newly elected Azacualpa council to represent the community's interests in negotiations with Aura Minerals; and the Ministry of Health has attempted to close the graveyard using a law that has never been approved or ratified by the Honduran Congress. These actions by Honduran authorities are emblematic of the 80% impunity rate in Honduras[34] and the collusion of interests between the mining company and the government.

5. The on-going negotiations between Azacualpa, the Honduran government and Aura Minerals are being imposed in a coercive, illegitimate and unfair way for the following reasons: 1) Aura Minerals continues to insist on renegotiating the 2012 agreement that they themselves failed to fulfil when it expired on August 14, 2015; 2) the community council negotiating on behalf of Azacualpa is not recognized by the community that elected new leadership in April 2016; and 3) the Honduran government cannot be considered to be a 'neutral' actor to oversee the fulfilment of the mining company's commitments to the community given multiple acts of partiality in favour of the company. Azacualpa residents have also been intimidated by the violent history in the region as by the high levels of impunity and corruption in the country, and have no viable legal recourse to defend their rights.

[34] http://www.oas.org/en/iachr/media_center/PReleases/2016/015.asp

6. For years, Canada's foreign policy in Honduras has permitted, promoted and exacerbated the rights violations, environmental damage, and social tensions and conflict generated by mining companies, like Aura Minerals. The communities of La Unión have been confronting the problems created by Canadian mining companies for almost twenty years with no end in site. On various occasions, the Canadian government was specifically informed by affected communities in Siria Valley, Honduras, of the conflicts, health harms, and environmental damages generated by another Canadian company, Goldcorp. Nonetheless, its support for mining companies abroad remains firm. More broadly, through its support for the Honduran government after the 2009 military coup, Canada is helping to fuel the widespread corruption and impunity in the country, and the grave human rights abuses committed by Honduran state security forces.

7. The mining concession is old and its coordinates or geographical boundaries need to be double-checked in relationship to the location of local communities and their present day land use. It is possible that the expansion of the mine forced families from San Miguel, Plantanares, and San Andrés to move and resettle in the region thus indicating the importance of mapping the concession in relation to any expansions and the disruptive impact the mine has had and will have on local communities.

8. The timing of cemetery inspections conducted by the Ministry of Health and COPECO suggest an abuse of power by agencies of the Honduran government to assist the mining company in finding a "legal" justification to displace the community. Instead of upholding Honduran law, local authorities and national government offices abused their authority and resources to harass the community and justify the expansion of Aura Minerals' interests, while ignoring or failing to investigate the legal complaints from Azacualpa residents on May 14, 2015 over extensive damage caused in their community by the mine. The lack of investigation and follow-up on the complaints made by the community reinforces the state of impunity, denying Azacualpa residents justice and redress.

Recommendations

1. A comprehensive legal analysis regarding the 1838 *ejidal* land title of San Andrés and communities within it should be undertaken, along with a study of the corresponding legal framework, is urgently needed before any further "negotiation" process moves forward. This analysis should include an examination of land tenure and land rights pre-dating 1821 and 1838 Honduran independence, as well as the role of municipal authorities in land transfer procedures post-independence and following the approval of the 1990 Municipal Law. This study should be conducted by legal experts trusted by Azacualpa and affected communities. Any future talks about mine expansion in San Andrés should be based on the full respect for the community's land rights and take into consideration violations of land rights in land transfer processes that have taken place since the 1990s to facilitate Canadian mining operations.

2. Honduran authorities and specifically the Honduran Institute of Geology and Mining (INHGEOMIN) must disclose all information regarding mining concessions granted for the San Andrés mine so that local authorities, Azacualpa residents, and their legal representatives have access to all pertinent information regarding current and future mining operations.

3. All six communities affected by the proposed displacement of the cemetery and any future mining on *ejidal* land should be provided with full information regarding the company's plans and be duly consulted about whether or not they are in agreement with the relocation and the expansion of the mining operation into their cemetery and other mountaintops in the region. If they are not in agreement, all such mining activities should be halted.

4. The history of the San Andrés mine, specifically dating back to 1997 when Canadian mining companies took control, has involved the displacement and disappearance of several communities,

including San Andrés Minas, San Miguel, and another known as Plantanares. Mining as conducted by Canadian mining companies in San Andrés has hindered the development of these communities, which were forced to move and be rebuilt, or were otherwise reduced in size. More understanding and documentation of the history of these communities, their interactions with mining companies, if any violence, intimidation and threats had occurred, how the displacement occurred, any agreements or commitments that a were made as a result, and the status of these agreements and conditions of the communities' are critical in understanding how and if mining should proceed in the region in the future, as well as concerning what liability Aura Minerals might have for these past harms. Documentation about the displacements of entire communities in connection with the San Andrés mine is not available form INHGEOMIN or other public files, suggesting that it is more than likely that basic legal requirements were not met. It is also possible that previously displaced communities face ongoing harms and violations. Upon understanding how the displacement occurs, necessary compensation and reparations as well as legal actions should be evaluated and sought.

5. Pending the fore-mentioned studies and consultation processes, the 2012 agreement between Azacualpa and Aura Minerals should be suspended. If and when the community of Azacualpa agrees to further mining activities after having obtained complete information about their land rights, mining concessions and company plans, as well as any other relevant input that they might deem appropriate, a new agreement should be drawn up with support from international and national experts trusted by the residents of Azacualpa to assist the community in the process and in accord with international human rights and related jurisprudence. The wishes of the community regarding their cemetery and any potential resettlement should be treated separately and the decisions of the community fully respected in both regards.

6. Given the Honduran government's demonstrated bias in favour of Aura Minerals, an independent oversight body should be created to ensure the fulfilment of any future agreement between Azacualpa and the mining company. This oversight body should include national and international experts that are trusted by the residents of Azacualpa to monitor, oversee, and evaluate the compliance and fulfilment of the new agreement by Aura Minerals.

Appendix 1: Summary of the 2012 Relocation Agreement

Signed July 24, 2012

The agreement outlines the relocation of Azacualpa to a location known as Palania approximately 8 kilometres from its current location. The agreement outlines Aura Minerals the coordinates of the 63.94 hectares of land in Palania and agreed to:

a) To provide land titles to the Patronato no later than December 30, 2012 or when the Patronato obtained their legal status.

b) To obtain the land no later than October 30, 2012

c) To use the obtained land for the construction of houses for the habitants of Azacualpa

d) To construct the number of houses on the acquired land according to the census on April 2012 [the census showed a total of 396 houses in Azacualpa].

e) Once reaching an agreement with the community, to begin constructing the houses and obtain the necessary licenses that legislation requires.

f) To build the houses over a period of three years in three stages:

   Stage 1: By August 14, 2013, complete the construction of 120 houses

   Stage 2: From August 15, 2013 to August 14, 2014, to hand-over 120 houses to the community

   Stage 3: From August 15, 2014 to August 14, 2015, to hand over the last of the 120 houses or the number of houses needed by the communities as indicated by the 2012 census.

g) The houses be used for people residing in Azacualpa at the time that the census is conducted in April 2012.

h) The acquisition of properties in Azacualpa will be negotiated on an individual basis with each owner.

i) The houses will be built using three models, model 1, 2 and 3:

   a. Model 1: A basic house with two bedrooms, kitchen, eating and living area, with one private bathroom, one pila (washing area) totalling 76.62 metres squared and with an area around the house totalling 190.32 m squared.

   b. Model 2: A house with three bedrooms, kitchen, eating and living area, with two private bathrooms, one pila (washing area) totalling 124.63 m squared, and an area around the house totalling 258.03 m squared.

   c. Model 3: A house with four bedrooms, kitchen, eating and living area, three private bathrooms, one pila (washing area) with a total area of 144.00 m squared and an area around the house totalling 357.00 m2

   Houses will be constructed with "first class" materials, all with cement blocks, with their respective iron structure, zinc roofs with water drainage, cement floors.

j) The housing project will also include a water and sewage system, electricity, with roads and avenues, green areas for recreation and areas designated for the construction of public buildings.

k) MINOSA also extends its commitment to the *patronato* of Azcualpa to pave the current road of said community once all of the houses are constructed. Paving the highway (its unclear which highway) will cost 9,000,000 lempiras [$400,000 USD]

l) Residents of Azcualpa, in an individual manner with their ID numbers, digital fingerprint will authorize the relocation of the cemetery used by said community and will permit MINOSA total access of the zone where MINOSA considers it to be convenient to develop their mining projects of exploration and exploitation in Cerro del Cementerio, Cerro Cortes, La Bufa, Agua Caliente, amongst other [areas], within the concession authorized by the Government of Honduras, as ratified and agreed upon in an Assembly on July 15, 2012 in a votation of 412 votes in favor, 4 against, and 1 null.

ll) The community of Azacualpa, by way of this deal, is obliged to permit the identification and relocation of the remains of their family members buried in the cemetery. The Municipal mayor and Municipal offices will provide the necessary permits for the closure, relocation of the bodies, and construction of a new cemetery fulfilling the regulations under the Municipal Law

m) The housing project paid for by MINOSA includes the construction of basic systems like the sewage and water system, electricity, construction of roads and avenues, a central park, artificially surfaced soccer field and multi-use roofed area with electricity and cement floors. The last item on the list will be constructed four years from the signing of this agreement

n) The construction inside the Housing project by part of the Municipal offices of La Unión will include: a school with 12 school rooms and a multi-use field inside the school, a kindergarten, health centre, Catholic church, an Evangelical church, a community centre and a police post.

Similarly, the construction of 50 houses, each costing 100,000 Lps [4,500 USD] will be built by MINOSA and donated to youth and persons that will not be awarded a house [in the previous points of the agreement]. The construction of these houses will occur within a timeframe of three years from the agreement date.

The *patronato* of Azacualpa will receive a payment of 30 Lps [$1.30 USD] for every pine tree that is cut by MINOSA.

o) Its understood that the type of house given to the community of Azacualpa will be determined based on information collected in a census taken on April 30, 2012. The following information will be noted: type of house, internal distribution of house, dimensions, conditions, etc and that 80% of families will be given Model 1; 15% Model 2, and 5% Model 3.

p) MINOSA is responsible for paying the following services: paying teachers, nurses, providing food for senor citizens, transportation for students, housing improvements, ambulance services, medical attention in the community for 3 days/week, paying for teachers providing computer classes in the community of Azcualpa, employment opportunities in MINOSA and all the social services that were agreed upon in an agreement signed on September 16, 2007.

q) MINOSA will cover costs related to the donations of land titles to each benefactor and the costs of registration of the titles.

r) MINOSA commits to paving the public access road to the new community in the fourth year from the time this agreement is signed.

The agreement was signed by and in the presence of:

Serafin Antonio Tabora Lara – Mayor of La Unión

Monty Reed William – General Manager of MINOSA

Various individuals from the Azcualpa community including the *patronato*

Appendix 2: IFC Performance Standard on Land Acquisition and Involuntary Resettlement

International Finance Corporation, World Bank Group

Performance Standard 5: Land Acquisition and Involuntary Resettlement

January 1, 2012

Objectives:

- To avoid, and when avoidance is possible, minimize displacement by exploring alternative project designs.
- To avoid forced eviction
- To anticipate and avoid, or where avoidance is not possible, minimize adverse social and economic impacts from land acquisition or restrictions on land use by (i) providing compensation for loss of assets at replacement cost[35] and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected.
- To improve, or restore, the livelihoods and standards of living of displaced persons.
- To improve living conditions amongst physically displaced persons through the provision of adequate housing with security of tenure[36] at resettlement sites.

For the full document and explanation, see http://www.ifc.org/wps/wcm/connect/c8f524004a73daeca09afdf998895a12/IFC_Performance_Standards.pdf

[35] Replacement cost is defined as "the market value of the asset plus transaction costs. In applying this valuation, depreciation of structures and assets should not be taken into account. Market value is defined as the value required to allow Affected Communities and persons to replace lost assets of similar value. The valuation method for determining replacement cost should be documented and included in applicable Resettlement and/or Livelihood Restoration plans" (see paragraphs 18 and 25).

[36] Security of tenure means that resettled individuals or communities are resettled to a site that they can legally occupy and where they are protected from the risk of eviction.