

Resisting CAFTA and Metal Mining in El Salvador

By Leah Wilson
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On Friday, January 8, hundreds of people arrived in the rural town of Trinidad, El Salvador to hold vigil for the "martyrs of the struggle against mining." Five lives had already been lost due to violence against anti-mining activists. People came from across the country to demonstrate their solidarity with the victims and their rejection of metallic mining in their country.



Ramiro Rivera's funeral procession in Trinidad, Cabanas, December 2009—photo by Leah Wilson

Between musical groups playing traditional revolutionary songs and a young rapper from nearby San Isidro with a message of social justice, a young local priest spoke to the crowd: "Our family and friends are being murdered. Environmental damage has already been done. The harmony of our town has been torn apart. And this foreign mining company, Pacific Rim, has the gall to call itself the victim. Here, they are the criminal. How can they call themselves a victim internationally?"

But Pacific Rim is doing just as the priest described and has found its legal backing in an instrument of U.S. trade policy, the United States-Central American-Dominican Republic Free Trade Agreement (CAFTA).

Long before December 17, 2004, when El Salvador became the first Central American country to sign on to CAFTA, economists, members of the leftist Farabundo Martí National Liberation Front (FMLN) party, and leaders of the Salvadoran social movements warned that the trade agreement would increase poverty, worsen labor conditions, and undermine national sovereignty. In the months before CAFTA's approval, popular mobilizations highlighted the people's rejection of the trade agreement. They were met with violent police repression and a multi-million dollar government funded pro-CAFTA campaign. The final approval by El Salvador's Legislative Assembly took place in a midnight session fraught with deal-making and surrounded by hundreds of riot police to keep the protesters at bay.

Almost five years later, basic living costs have skyrocketed as CAFTA has destroyed the already-neglected agricultural sector and one of the most insidious parts of CAFTA—the investor protection clauses—is just

now being revealed. Chapter 10 of the trade agreement contains the articles that allow foreign corporations to sue governments for violating their "right" to profit. Economists like Raul Moreno from El Salvador's Foundation for the Study of the Application of Law (FESPAD) have been warning the public about these articles since the beginning. Moreno explains that these articles are "the real attack on national sovereignty. If a country takes an action or creates a law to protect its citizens, to protect its workers, or to protect its environment, a foreign company can now sue the country for infringing on their profits."

In April 2009, Canadian-based Pacific Rim became the first company operating in El Salvador to file such a lawsuit under CAFTA, suing the country for hundreds of millions of dollars in damages. The company is alleging that the government violated CAFTA's investor protection clauses by not issuing the company mining exploitation permits. As a Canadian company, Pacific Rim is not a party to CAFTA, but it filed the suit through a Reno-based subsidiary that they acquired just before deciding to sue.

The El Dorado Mine

The El Dorado gold mine, located in San Isidro, was purchased by Pacific Rim in 2002. They obtained exploration permits from the Ministry of Economy and the Ministry of the Environment and Natural Resources and began exploratory drilling, accompanied by a massive media campaign. Radio and newspaper spots talked about a technique called "minería verde" or "green mining"—an extraction method that is supposedly environmentally and socially responsible. But, according to Luis González of the Salvadoran Ecological Society (UNES), this method is a PR invention of the mining company. "There is not a single scientific or industrial publication that mentions such a technique," says González. "And the social, environmental, and health impacts of gold mining would be very damaging to El Salvador."



As early as 2005, community organizations in Cabañas became suspicious of Pacific Rim's "green mining" claims and began doing research. They visited the Valle de Siria gold mine in Honduras, which used the same extraction method Pacific Rim was planning. Miguel Ángel Rivera, who lives near the El Dorado site and is a member of the Friends of San Isidro Cabañas (ASIC), went on one of the visits to the Honduran mine. "The health problems were shocking," he says. In Valle de Siria, the infant mortality rate is 12 times higher than the national rate. "We knew we could not just let this happen to our communities and our children so we started educating ourselves more." The local community organizations began their own research and started public education campaigns to fight the company's misinformation.

According to Pacific Rim's own Environmental Impact Study, gold extraction at El Dorado would use almost 240,000 gallons of water a day. That is the same amount of water used by an average Salvadoran family during 20 years. El Salvador already has the least access to clean drinking water of any Latin American country. Pacific Rim proposes using a cyanide extraction method at the El Dorado site, located in the basin of

the Lempa River. Lempa is El Salvador's largest river and provides over half the drinking water for the metropolitan area surrounding El Salvador. Experts at UNES and Oxfam America say cyanide, heavy metal, and acid runoff would poison the river's aquifers.

Community groups in Cabañas used popular education to inform residents of the zone about the mining threat and began organizing to let Pacific Rim and the Salvadoran government know they would not allow mining to destroy their communities. They collected signatures of community members opposed to the project.

In the community of Trinidad, the Cabañas Environmental Committee (CAC) organized mass protests that effectively blocked the arrival of Pacific Rim's equipment. Campesino families, community priests, and youth leaders united to reject what they call the "death projects" threatening the region. Their unified chant at marches, blockades, and festivals is short and to the point: "No to mining, yes to life."

In 2005, the Cabañas resistance joined with communities fighting mining in other departments of the country, as well as national NGOs, including UNES and FESPAD, to form the National Roundtable Against Metallic Mining in El Salvador. MESA, as the coalition is known, organized national public education campaigns to inform everyone in El Salvador about how the proposed mining projects in rural communities would have national ramifications. With radio spots, public forums, and leafleting, MESA made the mining threat a topic of national discussion. They also did lobbying work, getting institutions and elected officials to take positions on the issue.

In 2005, when Pacific Rim applied to the Ministry of the Environment and Natural Resources for permits, the government of then-President Tony Saca of the right-wing Nationalist Republican Alliance (ARENA) wavered in granting the permits. Then, during the electoral period of 2009, Saca made a public pronouncement against metallic mining, saying he would rather pay fines of hundreds of millions of dollars than grant permits to Pacific Rim.

"Even ARENA, which is always on the side of the transnationals over the people, knew that the political costs of approving the permits would be too high," explains William Castillo of the Center for Investigation of Trade and Investment (CEICOM), a member organization of the MESA. But the effectiveness of the movement's organizing, according to Cabañas activists, was such a threat to mining interests that a campaign of terror soon began.

Death Threats and Murder

In 2009, the murders of three prominent anti-mining activists in Cabañas left the local and international community shocked and angered.

In June, Gustavo Marcelo Rivera—president of ASIC and a local FMLN party leader—was forcibly disappeared, tortured, and murdered. Before his disappearance, Rivera reported that he was receiving death threats specifically referencing his anti-mining activism. When his body was found in a well 12 days after he disappeared, the police offered an explanation of gang-related violence, saying Rivera had been killed after a heated argument while drinking with gang members.

Friends and neighbors reject this explanation, noting that Rivera was not a drinker and did not know any gang members. His brother Miguel Ángel Rivera says, "The police investigation did not even mention his anti-mining activism or that he was a local FMLN leader. Political motives for his murder were never investigated."

Following Rivera's assassination in December 2009, two active members of the Cabañas Environmental Committee (CAC) were shot and killed in the rural community of Trinidad. Vice-president of the CAC,

Ramiro Rivera (no relation to Gustavo Marcelo) and his neighbor Felícita Echeverría were shot and killed on their way back from a fishing trip. A female teenage passenger was also shot, but survived. Ramiro Rivera was under 24-hour police protection at the time of the attack, a service given to him because he was receiving similar threats to those received by Gustavo Marcelo Rivera. The two officers present did not stop the attack, nor were the gunmen captured.

Just six days following the double homicide, Dora Alicia Sorto was shot and killed while returning from doing laundry with her children. Sorto, an active member of the CAC, was eight-months pregnant when she was murdered. Her two-year-old son was shot in the foot but survived.

"Our communities have never seen this type of violence," says Hector Berríos, a resident of Cabañas and member of the Francisco Sánchez 1932 Unified Movement (MUFRA-32), an organization active in the anti-mining resistance. "Cabañas is the third least violent department [of 14 departments] in the country," Berríos explains. "It wasn't until Pacific Rim showed up that the violence began."

To date, none of the murders have been thoroughly investigated and activists continue to report attempted kidnappings and death threats. Reporters at Radio Victoria, a community radio station in Cabañas, regularly receive death threats via email, text messages, and phone calls about their opposition to the Pacific Rim project.

National Sovereignty & CAFTA

Another threat is the high cost of the company's lawsuit against the State. According to Pacific Rim's Notice of Intent to Sue, they are seeking a minimum of \$77 million in damages, though Pacific Rim CEO Thomas Shrake has stated the company is seeking up to "hundreds of millions of dollars" in damages. If that number seems amorphous, it is because Chapter 10 of CAFTA paints broad strokes when defining "investment." According to Article 10.28, "investment" is defined to include "the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk." Companies can sue not only for money invested, but for the money they thought they were going to earn.

William Castillo of CEICOM explains how Chapter 10 supersedes El Salvador's domestic laws: "Even though Pacific Rim did not establish sufficient environmental protections in its Environmental Impact Report or carry out an informed public consultation—both of which are required under Salvadoran mining law to obtain exploitation permits—they are now able to sue us because of this trade agreement that a past government signed despite of civil society rejecting it." In the case of Pacific Rim and El Salvador, the arbitration process is taking place behind closed doors in Washington, DC at the International Center for the Settlement of Investment Disputes (ICSID)—an institute of the World Bank—as stipulated by CAFTA. A hearing took place on January 18, 2010, with El Salvador presenting its initial objections to the lawsuit and Pacific Rim responding. The next hearing is scheduled for late May .



Anti-mining protest in El Salvador

There are currently 29 mining projects with exploration permits throughout the country, all of which are meeting resistance from organized communities. A favorable ruling for Pacific Rim would set a precedent that could result in an avalanche of lawsuits against the Salvadoran government. The U.S.-based mining company Commerce Group has already followed Pacific Rim's example by filing a similar suit before the ICSID in June 2009. MESA has pointed to the risk of establishing a trend throughout the region, the effects of which could be even more devastating in countries like Guatemala and Honduras where communities are fighting more entrenched and powerful mining companies like Goldcorp.

In El Salvador, just one lawsuit would be financially devastating, as the country is already in significant debt. The new Administration of Mauricio Funes, who took office June 1, 2009, is already burdened by the huge national debt and a weak domestic economy that past administrations left behind. The new Administration's social investment initiatives could be made impossible should it have to pay damages to just one mining company, let alone 28 more.

"What we are really seeing is how CAFTA, a trade agreement imposed on El Salvador by the right wing and the U.S. government, serves as a tool for transnationals to override national laws," explains Alexis Stoumbelis, executive director of the Committee in Solidarity with the People of El Salvador. "During the campaign, Obama promised a revision of these trade agreements, but has so far not taken any steps in that direction. Rather, he has continued negotiating similar agreements with other countries," Stoumbelis explained. "Now is the time to call on Obama to make good on his promise. The first step is to reveal the true face of these trade agreements everywhere we can."

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