



Mining Injustice Through International Arbitration:

Countering Kappes, Cassidy & Associates' claims over a gold-mining project in Guatemala

Luis Solano, Ellen Moore, and Jen Moore

August 24, 2020

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List of Acronyms

CAFTA-DR - Central America-Dominican Republic Free Trade Agreement

EXMINGUA - Exploraciones Mineras De Guatemala S.A.

ICSID - International Centre for Settlement of Investment Disputes

ISDS - Investor State Dispute Settlement

KCA - Kappes, Cassiday & Associates

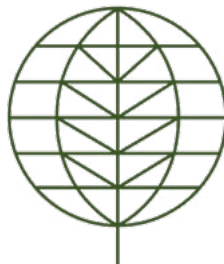
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EARTHWORKS

Mining Injustice Through International Arbitration

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*La Puya Peaceful Resistance encampment on the road outside the El Tambor mine site
Photo: Rob Mercatante, Defenders Project*

El Tambor is a controversial gold mining project in Guatemala. After years of local protests and litigation, the Guatemalan Supreme Court ordered a halt to the project in 2016 for lack of prior consultation with Indigenous people. This decision was recently reaffirmed by Guatemala’s Constitutional Court. The court-ordered suspension of the project and ongoing community protests are now under attack in an international arbitration case brought against the Guatemalan government by a United States company. This investigation examines the Kappes, Cassidy & Associates (KCA) arbitration suit, which is now entering the merit stage at the Washington, DC headquarters of the World Bank Group.

In late 2018, Nevada-based KCA initiated its lawsuit against the Guatemalan government at the International Centre for Settlement of Investment Disputes (ICSID) for over US\$400M. In its notice of arbitration, the company argues that it met all regulatory requirements, obtained the necessary permits, and got community support for the El Tambor mining project just north of Guatemala City. KCA alleges that the Guatemalan government violated the Central America-Dominican Republic Free Trade Agreement (CAFTA-DR) by not providing adequate protection to KCA’s investment against community protests, effectively claiming that the government did not do enough to suppress local opposition to the company’s mine. It also claims to have been harmed by the court-ordered suspension of its mine over lack of government-led prior community consultation.

This report examines and provides evidence that challenges KCA's claims and responds to its omissions, finding that:

1. Instead of respecting legitimate community opposition to its gold-mining project, KCA increased its efforts to build the mine.
2. The company never lived up to regulatory requirements in Guatemala.
3. In its notice of arbitration, the company omits any mention of the use of violent force to open the mine. However, KCA's mine became operational as a result of the use of violent repression against local communities carried out by militarized private and state armed forces under a corrupt government.
4. KCA leadership, including president Daniel Kappes, has been subject to arrest warrants and criminal investigation in Guatemala.

This investigation further reveals how KCA is taking advantage of a supranational arbitration system to try to strongarm the Guatemalan government into either greenlighting its controversial gold project, or compensating the company for hundreds of millions of dollars in future profits it had little hope of ever earning.

Investor State Dispute Settlement (ISDS) is enabled by investor protection rules found in free trade agreements, such as CAFTA-DR, as well as other international investment agreements, laws and contracts. As documented in a 2019 study, [Extraction Casino](#), ISDS cases are disproportionately brought against governments in the Global South, especially Latin America, frequently in the context of conflicts in which communities have been organizing to oppose mines or address related harms.¹ As a result, KCA joins a long line of mining companies that are using ISDS as a last resort in cases where communities are standing up to protect their water and health from mining's negative impacts, providing an in-depth example of this trend. It is also illustrative of the injustice of the ISDS system, which provides favorable rules and binding recourse for companies, while communities struggle to protect their water, health, and security at great risk and with few effective protections.²

The following sections provide evidence to rebut the principal claims that KCA makes in its notice of arbitration against Guatemala. Also included are examples of KCA's ties to individuals of poor repute in the country, as well as evidence of the ruthlessness with which the company's mine was imposed—crucial information that KCA has not disclosed in its notice of arbitration to the World Bank arbitration panel.

The El Tambor Mining Project

The El Tambor gold and silver mining project started to take shape in 1996, the same year the pro-business government of Álvaro Arzú was elected. It was also the year that peace accords were signed between the government and guerilla forces, ending the 36-year internal armed conflict. In 1997, President Arzú implemented neoliberal reforms to the Mining Law in close collaboration with the nascent industrial mining sector.³ The reformed law, combined with an end to the armed conflict, opened the door to increased investment from national and transnational mining companies. The code decreased royalties that mining companies had to pay to their lowest level ever, from 6 percent to 1 percent,⁴ and made it simpler for companies to obtain licenses.⁵

Around this time, Canadian and Guatemalan investors interested in the El Tambor project developed a network of subsidiary companies registered in Guatemala and in offshore tax havens.⁶ The main Guatemalan subsidiary in this network was Exploraciones Mineras De Guatemala S.A. (EXMINGUA), which was incorporated in 1996 under the ownership of Canadian company Tombstone Explorations. In 1999, Canadian-owned Radius Gold bought EXMINGUA and El Tambor.



Members of La Puya Peaceful Resistance encampment on the road outside the El Tambor mine site

Banner hung at the peaceful resistance
(Translation: "We are all San José de Golfo")

Photos:
Rob Mercatante,
Defenders Project



The El Tambor mining project consists of a group of mining concessions on the outskirts of Guatemala City with an estimated size of over 60 km².⁷ KCA's arbitration case against Guatemala focuses on two El Tambor mining concessions called *Progreso VII Derivada* and *Santa Margarita*. *Santa Margarita*, located in the municipality of San Pedro Ayampuc, initially belonged to the Guatemalan company Geominas, S.A. and was acquired by Radius Gold in 2000. The *Progreso VII Derivada* license is

adjacent to *Santa Margarita* and straddles the municipalities of San José de Golfo and San Pedro Ayampuc, roughly 30 km north of Guatemala City. This concession originally belonged to Canadian company Glamis Gold until Radius Gold acquired it in 2006.

After engaging in a couple of other joint ventures to work on the project, Radius entered into an agreement with KCA in June 2008. In 2009, KCA took over ownership of EXMINGUA from Radius via its subsidiary Minerales KC Guatemala Ltda, although the companies' joint venture continued until 2012.⁸ Minerales KC Guatemala Ltda now holds 75 percent of the shares in EXMINGUA and KCA President Daniel W. Kappes the remaining 25 percent.⁹

KCA built its gold mine, which it planned to operate for five years, on the *Progreso VII Derivada* concession. The company also claims to have been carrying out exploration activities and seeking permits for the neighboring *Santa Margarita* concession. Operations to date are just the start of what could be developed into a much larger project or expanded to include additional mines, if allowed. This report focuses principally on *Progreso VII Derivada*.

KCA presented its notice of intent to file an arbitration case to Guatemalan authorities in May 2018¹⁰ and filed its notice of arbitration with ICSID in November 2018.¹¹ In March 2020, the ICSID panel accepted the case for consideration on its merits.¹²



*A member of the peaceful resistance facing riot police
Photo: Rob Mercatante, Defenders Project*

1 Instead of respecting legitimate community opposition to its gold-mining project, KCA increased its efforts to build the mine.

The company claims to have obtained a social license to operate prior to starting work on the mine, “...having consulted with the local communities and having received no objections to its mining plan.”

– Paragraph 3, [notice of arbitration](#)

KCA further claims that community protests were incited by outsiders, rather than motivated by local concerns about negative mining impacts: “... Claimants’ projects were subject of protests supported by non-governmental organizations that enticed the local population to blockade access to the mining sites. Despite numerous entreaties, Respondent [Guatemala] failed to address the situation to secure Exmingua’s access to its mining sites.”

– Paragraph 4, [notice of arbitration](#)

In its notice of arbitration,¹³ KCA claims that it had support from local residents and blamed outsiders for protests against the gold mine, an oft-used accusation in Guatemala to try to discredit community protests.¹⁴ Even when Radius Gold decided to divest as local opposition grew and residents faced violent repression, KCA pushed ahead with the mine.

Construction at the *Progreso VII Derivada* concession began in early 2012. Within weeks, residents from the municipalities of San Pedro Ayampuc and San José del Golfo, concerned for their water and health, set up the Peaceful Resistance La Puya to block access to the mine site. Communities had started to seek out information about the impacts of mining in early 2011, at which time KCA representatives reportedly approached communities to discuss agriculture projects and were seen removing rock and soil samples from the area.¹⁵

Men and women of all ages from various nearby communities participated in the encampment. Their objective was to stop mining in the region in order to protect already scarce water supplies and to ensure public institutions responsible for environmental protection would carry out rigorous evaluation of potential mining impacts in the region.



*Meeting at the La Puya Peaceful Resistance encampment
Photo: Rob Mercatante, Defenders Project*

Shortly after, police and private security forces began to threaten and violently repress community members. The non-violent protestors, who were known for responding to violent confrontation by singing hymns and reading Bible passages, were also the victims of legal persecution, including facing accusations of illegal detention, coercion and threats against mine workers.¹⁶ In the middle of the night, on May 8, 2012, company workers backed by an estimated 400 riot police unsuccessfully tried to break the blockade.¹⁷ Then, on June 13, 2012, a member of the resistance, Yolanda Oqueli, was shot and wounded as she was leaving the blockade. The escalation in violence gave rise to international outcry and attention.¹⁸ No arrests were ever made and the crime against Oqueli remains unsolved.¹⁹

In August 2012, Radius Gold sold its 49 percent share in the project to KCA for USD\$400,000 and registered a loss of USD\$3.8M. Radius described its decision as part of a strategy to “divest problematic assets.”²⁰ KCA, on the other hand, consolidated its holdings in the project and pushed ahead.

KCA’s claim that it held a handful of meetings and received “no objections to its mining plan” while preparing its Environmental Impact Assessment disregards the breadth of local opposition that became clear shortly after construction began and fails to justify the company’s decision to push ahead with the mine, especially after Radius decided to divest. Rather, KCA’s dismissal of local

opposition as having been “enticed” by non-governmental organizations demonstrates its lack of respect for affected communities concerned about their water and health. It is also indicative of its willingness to rely on force to advance the project.



A police officer blocks banner reading “San Pedro Ayampuc Dice: No a la Mina” (Translation: “San Pedro Ayampuc says No to mining.”)



A member of the peaceful resistance injured during an attempted eviction of the encampment outside the mine site.



Women pray during peaceful blockade of the El Tambor mine site



*A peaceful protestor faces riot police outside the El Tambor mine site
Photos: Rob Mercatante, Defenders Project*

2 KCA never lived up to regulatory requirements in Guatemala.

KCA claims that its license to operate on the Progreso VII Derivada mining concession was “lawfully-issued” and that the Legal Counsel for the Ministry of Energy and Mines had given a favorable opinion ahead of its approval, finding the permit to be “in the interest of the country.”

– Paragraphs 5 and 39 of the notice of arbitration

The circumstances under which KCA obtained—or failed to obtain—the necessary permits to explore, build, and operate a mine on the *Progreso VII Derivada* concession point to corporate influence over Guatemala’s government, rather than the company’s respect for domestic laws. The company’s key exploration and extraction permits were issued by government authorities that readily moved through the revolving door between public and private spheres, or who were later caught up in unrelated corruption scandals. A court challenge and an environmental inspection reveal that KCA failed to live up to legal requirements.²¹

KCA also enjoyed relationships with national and transnational elite who played an active role in shaping a legal and regulatory framework that is beneficial for the mining industry in Guatemala. These connections were also necessary to getting its mine up and running.

a. **Government support for industry and KCA, despite regulatory violations**

At every stage of the development of the El Tambor project and the *Progreso VII Derivada* concession, government authorities acted to advance and protect KCA’s interests, including circumventing a government moratorium on new mine licenses and rubber stamping a woefully incomplete environmental impact assessment. This beneficial treatment can be tied, in some cases to the revolving door between government and industry, as well as to corrupt officials.

Alfredo Gálvez Sinibaldi, Director General of Mining, during the government of President Óscar Berger (2004-2008), provides an example of the revolving door. Sinibaldi oversaw approval of an exploration license for the El Tambor project.²² After leaving office, Sinibaldi served for three years as the general manager of a Canadian mining company, Nichromet Guatemala and then as general manager of another mining company, Firestone Ventures, before returning to public office as Vice Minister of Energy and Mines in 2015.²³ He later went back to the mining industry, becoming general manager of Montana Exploradora, a subsidiary of Canadian mining company Goldcorp (recently merged with Newmont Mining).

KCA was granted its operating permit under the administration of President Álvaro Colóm (2008-2011) despite a moratorium on all new mine permits. President Colóm declared the moratorium in the context of broad-based discontent growing against mining across the Guatemalan countryside, the result of communities experiencing negative impacts where mining had already started.²⁴ Nonetheless, on September 30, 2011, the Guatemalan Ministry of Energy and Mines granted a 25-year extraction license for the *Progreso VII Derivada* mining concession in an area of 20 km² to Radius and KCA. This was the only permit for mineral extraction issued that year.²⁵

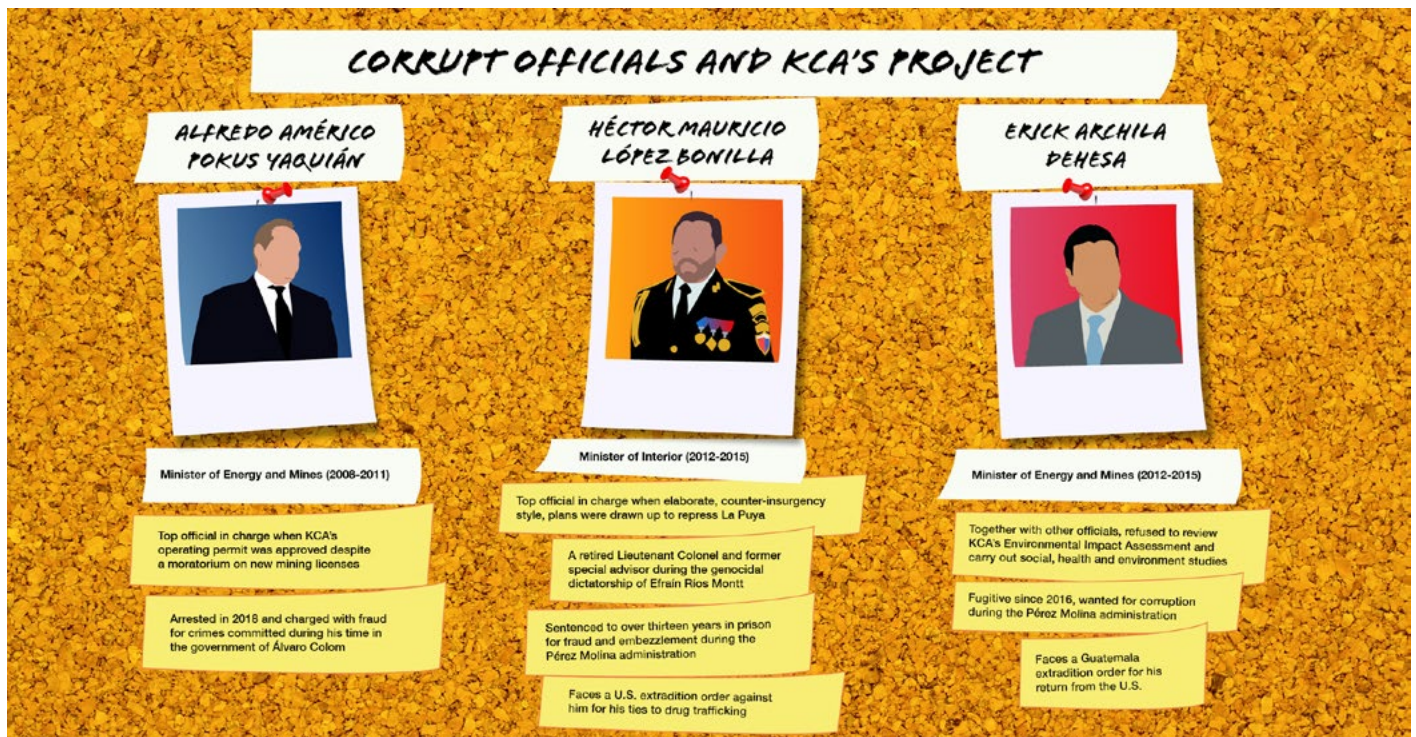
Exactly how KCA obtained its operating permit has yet to be clarified, but the circumstances raise alarm about the government's willingness to bend to industry—and KCA—interests. It is also important to note that the Minister of Energy and Mines at the time was Alfredo Américo Pokus Yakián, who was later arrested in 2018 and charged with fraud related to his involvement in a case under investigation by the International Commission Against Impunity in Guatemala (CICIG).²⁶ In 2011, Congressman Aníbal García also accused Pokus Yakián of illegally favoring the interests of oil company Perenco.²⁷ Further putting into question the decisions leading to approval of the company's operating license, Dr. Rob Moran, who later conducted an independent review of the company's Environmental Impact Assessment for communities, called it "the worst quality [Environmental Impact Assessment] I have reviewed in more than 42 years of professional hydrogeology / geochemistry experience, involving hundreds of mines, worldwide."²⁸ Backed by a second expert report from independent scientists,²⁹ the Peaceful Resistance La Puya called for a review of the company's Environmental Impact Assessment, completion of a baseline water quality and quantity study in the project's area of influence, a feasibility assessment of social programs in the communities, and an on-site inspection by authorities, including the Ministry of Health.

In response, the government of Otto Pérez Molina (2012-2015) rejected the Peaceful Resistance La Puya's demands in a letter signed by the highest-ranking ministers responsible for the mining project: the Minister of the Environment and Natural Resources, Marcia Roxana Sobenes García; the Minister of Energy and Mines, Erick Archila Dehesa; the Minister of the Interior, Mauricio López Bonilla; and the Minister of Health and Public Assistance, Jorge Alejandro Villavicencio.³⁰ The latter three are currently being prosecuted in connection with cases of corruption linked to the Pérez Molina administration.³¹ Archila Dehesa has been a fugitive since June 2016.³² In November, 2019, the Guatemalan Supreme Court issued an extradition order for Archila Dehesa's return to Guatemala from the United States.³³ Bonilla, a retired Lieutenant Colonel and former special advisor during the genocidal dictatorship of Efraín Ríos Montt,³⁴ was convicted for fraud and embezzlement during the administration of Pérez Molina³⁵ and also has a U.S. extradition order against him for his ties to drug trafficking.³⁶

Beyond the question of its operating permit, the company never obtained the required construction license from the municipality of San Pedro Ayampuc, according to a 2015 Guatemalan court decision.³⁷ In this case, municipal authorities were also accused of not consulting residents about mining activities as required under the Municipal Code, of failing to halt the illegal construction activities as a result of the company lacking the required municipal permit, and of putting the health and safety of residents at risk.³⁸ The court ordered the mine construction suspended and for residents to be consulted. Municipal authorities never enforced this decision, and KCA did not respect it.³⁹

Nor did the company respect environmental laws and regulations. In 2015, the Ministry of the Environment and Natural Resources undertook a review of the company's reports and an inspection of the mine site and found that KCA was violating well over a hundred provisions for environmental protection and mitigation of environmental harm in its operating permit.⁴⁰

Support for the mining project during Otto Pérez Molina's government (2012-2015) was most prominently reflected in police repression against the Peaceful Resistance La Puya discussed in further detail below.



b. KCA's connections to influential individuals in the private sector

Like other transnational mining corporations in Guatemala seeking to operate following the 1997 Mining Law reforms, KCA also enjoyed important relationships with the Guatemalan elite. KCA's mining project likely benefited from their access to government officials and influence over administrative, legal, and regulatory processes.

The first notable figure who worked to advance KCA's mining project is Lawyer Jorge Ernesto Asensio Aguirre, one of the principle architects of the 1997 Mining Law.⁴¹ Since then, his firm, *Asensio Andrade Flores*, has provided legal services to mining companies with some of the biggest operations in Guatemala at different points in time, including EXMINGUA.⁴² Others have included Montana Exploradora S.A. (now owned by Newmont Mining) and Goldcorp Inc.,⁴³ as well as Entre Mares de Guatemala, S.A.⁴⁴ (now owned by Bluestone Resources) and Minera San Rafael⁴⁵ (now owned by Pan American Silver and renamed Pan American Silver Guatemala, S.A.). KCA's subsidiary, Minerales KC Guatemala Ltda.,⁴⁶ was constituted by attorney Marcelo Charnaud Bran,⁴⁷ an employee of *Asensio Andrade Flores*. Asensio Aguirre's associate, Ignacio Andrade Aycinena, is

also a legal advisor to Minera San Rafael and served as president of the *Asociación de Amigos del País*, the principal organization representing the Guatemalan oligarchy.⁴⁸

After KCA consolidated its control over the El Tambor mining project in 2012, Rodrigo Carlos Maegli Novella, a well-known Guatemalan businessman, was appointed as EXMINGUA's corporate manager.⁴⁹ Maegli Novella's presence points to a close connection between EXMINGUA and two of the largest business groups in the country controlled by the Maegli and Novella and Maegli families: Grupo Tecun and Cementos Progreso respectively (the former, involved in agricultural machinery, vehicles, agrochemicals, and African palm plantations). Cementos Progreso is a cement monopoly and the mining company that holds more mining licenses and has founded more non-metallic-mineral mining companies than any other in Guatemala. Cementos Progreso also has processing plants and some mining licenses in the area where the El Tambor mining project is located. The Maegli Novella siblings are partial heirs of Cementos Progreso and on the company's board of directors.⁵⁰

Overall, KCA enjoyed important relationships with the economic elite of Guatemala, and faced little to no hindrance to its project from government officials with one foot in the private sector or who later faced corruption charges. Of particular note is that KCA's operating license was the only permit granted during a multi-year moratorium on new mining permits, despite major shortcomings in its Environmental Impact Assessment, and that the company lacked the required construction license. KCA's easy path toward operations illustrates a mining sector built by and for the national and transnational elite.

CORPORATE INFLUENCE & THE REVOLVING DOOR

JORGE ERNESTO ASENSIO AGUIRRE	ALFREDO GÁLVEZ SINIBALDI	SELVYN ANTONIO MORALES VALDEZ
High-powered lawyer who helped write the 1997 mining law	Director-General of Mining (2005 to 2008) at the time exploration licence was approved for El Tambor	Department of Mining Control Coordinator during the administrations of Presidents Berger (2004-2008) and Colom (2008-2012), during which time KCA was granted an exploration permit for El Tambor and began the process to obtain an operating permit
Since then, his law firm, Asensio Andrade Flores, has provided legal services to mining companies with some of the biggest operations in Guatemala	General manager (2009-2012) for mining company Nichromet Guatemala	
This includes having worked for EXMINGUA	General manager (2012-2015) for mining company Firestone Ventures	Left public office in 2010
Also, Montana Exploradora S.A. (Marlin mine, northwestern Guatemala) and Minera San Rafael (Escobal mine, southeastern Guatemala)	Vice Minister of Energy and Mines in 2015	
	Currently general manager of mining company Montana Exploradora, subsidiary of Goldcorp (now Newmont Mining)	In 2012, became the director of Servicios Mineros del Centro de America S.A., which was contracted by KCA

3 KCA's gold mine became operational as a result of violent repression carried out by militarized private and state armed forces under a corrupt government.

*KCA's notice of arbitration does not make any reference to the violence and repression that took place shortly after construction of the El Progreso VII mining project began. When describing events in May 2012, KCA's notice of arbitration states: "EXMINGUA obtained some police support, which attempted to break the resistance at the mining site, but **the protesters denied them passage and the police ultimately turned around and left.** KCA and EXMINGUA sought assistance from various local and national government authorities, but the State failed to take meaningful or effective action to stop the ongoing, unlawful blockade of the Progreso VII Project."*

– Paragraph 42, notice of arbitration (emphasis added)

*Similarly, when describing the police operation in May 2014, KCA omits any mention of the aggression employed: "**Following considerable efforts by Claimants,** on 25 May 2014, the exploitation activities at Progreso VII resumed, and, by year-end, EXMINGUA made its first concentrate shipment. Irregular blockades continued, however, without effective responses from the State."*

– Paragraph 45, notice of arbitration (emphasis added)

KCA's notice of arbitration provides no record of the police repression, targeted violence, and unfounded legal attacks that local community members faced for their participation in the Peaceful Resistance La Puya, who blocked access to the mine site beginning on March 2, 2012. KCA only makes light mention of two legal actions it brought to appeal for greater state protection. Ultimately a coordinated, aggressive campaign of threats and repression was carried out against protestors from 2012–2014. Indeed, the mine would never have operated from 2014–2016 except for the heavy hand of militarized private and public armed forces acting at the company's insistence and in the company's interest.

In September 2012, after Radius Gold pulled out and KCA consolidated its control over the El Tambor mining project, the company immediately brought a suit against Guatemalan authorities for lack of adequate police protection, claiming that workers had been injured and its facilities damaged.⁵¹ Within a few months, authorities developed a security plan that relied heavily on military counter-insurgency tactics. Shortly after, the resistance faced legal persecution along with further police repression, threats, and harassment from company employees and private security.⁵² In 2013, the peaceful resistance agreed to a high-level dialogue with the Pérez Molina administration. But these talks ended when the authorities again resorted to force. On May 23, 2014, intense police repression finally succeeded in breaking up the peaceful encampment, allowing the company access to the mine site. The resistance camp continued outside of the mine gate, but KCA was able to start operations.



A community member holds up a Guatemala National Police branded tear gas canister



Police tear gassing peaceful protestors at La Puya



Police at La Puya

Photos: Rob Mercatante, Defenders Project

In early 2016, KCA's work was stopped by court order given the failure of the Ministry of Energy and Mines to carry out a free, prior, and informed consultation to seek community consent, according to Guatemala's commitment to the International Labor Organization Convention 169 on the rights of Indigenous peoples. At this point, the company again tried to seek an injunction from Guatemalan courts. KCA alleged that government authorities had not provided it with adequate legal and police protection against the peaceful resistance,⁵³ despite the violent force used to open the mine in 2014 and the company's own failures to meet regulatory requirements.

Unfounded Legal Attacks

Community members active in the resistance to KCA's mining project faced physical violence, acts of intimidation and threats, and police repression. They were also subject to drawn-out cases of legal persecution that have been criticized for failing to follow due process or lacking in evidence.



*A community member holds up Guatemala National Police branded tear gas canisters
Photo: Rob Mercatante, Defenders Project*

In 2012, individuals believed to be EXMINGUA employees accused community members of illegal detention, coercion, and threats. As a result, in April 2014, three community members were sentenced to nine years in jail. Their bail was set at approximately US\$4,300 each and they were ordered to pay around US\$3,000 to each of the plaintiffs for psychological and material damages. The International Federation for Human Rights publicly denounced the lack of due process, lack of evidence, and indications of influence trafficking in the public prosecutor's office.⁵⁴ Nonetheless, the sentence was upheld, while community members maintain their innocence.

In early 2014, six other community members faced similar allegations. Two were absolved before a hearing took place and, in early 2015, the court dismissed the accusations against the other four, finding that the Public Prosecutor's Office had invented evidence with which to blame local residents.⁵⁵ Neither were company employees able to identify any of the community members.⁵⁶ The judge absolved the community members and ordered an investigation into the prosecutor in charge of the case for falsification of documents,⁵⁷ which to the best of our knowledge is ongoing.⁵⁸

In both of these cases, lawyer Fernando Linares Beltranena represented the plaintiffs.⁵⁹ Other aspects of his track record and relationship to KCA are described in Section 4.

a. Guatemalan authorities protected KCA

In its 2016 request for an injunction for greater protection from Guatemalan authorities, KCA named as respondents the President of the Republic, the Ministry of Interior, and the General Director of the National Civil Police, claiming that authorities had not guaranteed the following constitutional rights: “Protection of persons (residents of the Republic); freedom of action; freedom of movement; freedom of industry, business and work; and maintenance of public order with regard to the blockades in the municipality of San Pedro Ayampuc, nearby areas and in front of the mining project *Project VII Derivada*, by several groups of people.”⁶⁰



Police surrounding the La Puya Peaceful Resistance
Photos: Rob Mercatante, Defenders Project

As part of its deliberations, the court called on government authorities to submit numerous reports proving the extent of protection that KCA and the *Progreso VII Derivada* project had been receiving from the government. One report from the Ministry of the Interior included a confidential document from the National Civil Police, which details plans for the area around the *Progreso VII Derivada* mining project beginning in 2012. These plans, titled the “Detailed Report of La Puya Case and the Mining Project in the Municipality of San José del Golfo,” were prepared by the Department of Operations, the Joint Operations Division, and the Office of the Deputy Director of Operations of the National Civil Police. The report also includes a second confidential document, “Operational Plan No. 82-2012 – Plan to Control the Mining Conflict over the Progreso VII Project,” dated December 6, 2012. This second document describes the plans and actions that the Ministry of Interior put together in order to control the area around the mining project and the resistance movement. Similar to military counterinsurgency tactics, the plans aimed to close and control access to the main entry and exit routes for the principle populations in the area of the mining project.

On March 2, 2017, the Constitutional Court dismissed EXMINGUA’s request for an injunction, given

the evidence that authorities had adequately protected the company's interests. In its decision, the court states:

“With regard to the ‘breach,’ also described as the denounced act, this Court, on the basis of its analysis of the procedural records, especially of the detailed report (sic) sent by the denounced authorities, has determined that the necessary measures were taken in a timely way to safeguard public order at the facilities and areas adjacent to the Progreso VII Derivada mining project, specifically where the demonstrations took place, with respect for the rights of those who participated as demonstrators, as well as those who did not take part in the protests. With regard to this situation, this Court does not find the grounds that motivated the request for protection and, even less so, does it find that the threat that constitutional rights and public order will not be guaranteed persists in the vicinity of the installations of a mining project that, for the moment, is suspended. In view of the foregoing, we conclude that the request for constitutional protection is inadmissible and, for that reason, the injunction shall be denied in accordance with the statement described in the resolution section of this ruling.”

In the view of the court, contrary to KCA's claims, the company benefited from significant support from Guatemalan authorities, who developed elaborate government plans to back KCA and to undermine and repress the Peaceful Resistance La Puya. It is worth stressing that this information counters KCA's claims of lack of government protection and demonstrates how closely the government had been working with the company to break the resistance.

b. KCA's militarized security apparatus

EXMINGUA also turned to private security companies to protect and help consolidate its mining project. Retired military officers were owners of or partners in the security and/or mining services companies accused of issuing threats against the Peaceful Resistance La Puya and who participated in the police operations.⁶¹ One of KCA's private security companies was staffed by a former military official who was the director of the Ministry of Energy and Mines at the time when permits for the El Tambor project were moving through the ministry.⁶²

The most notable of these security companies was Servicios Mineros del Centro de América, S.A.,⁶³ which was in charge of community relations. It is headed by military engineer and retired general Mario Ricardo Figueroa Archila (Military Class 88 of 1974) and retired colonel José Vicente Arias Méndez (Class 87 of 1974). Arias Méndez was a second-lieutenant in the infantry during the genocidal dictatorship of Efraín Ríos Montt and was also a combatant. Colonel Luis Arturo Aguirre Calderón (Military Class 103 of 1982) was also part of Servicios Mineros, as well as working for the security companies Grupo Escorpión, S.A.⁶⁴ and Servicio de Seguridad Integral, S.A. (commercial name Omega 2000),⁶⁵ which were also contracted by EXMINGUA. These companies benefited handsomely during the government of Pérez Molina from state security contracts.⁶⁶

In mid 2012, members of the resistance movement accused representatives of Servicios Mineros del Centro de América, S.A. of threats and acts of intimidation to divide and undermine their protests.⁶⁷ One official complaint indicates that Arias Méndez was present, armed and uniformed,

giving orders to the police during an attempt to evict the resistance and bring in the company's machinery, which was carried out under heavy police deployment late at night on May 8, 2012.⁶⁸ In June 2012, as mentioned above, a member of the resistance, Yolanda Ouelí, was shot soon after she left the blockade, a crime that remains unsolved.⁶⁹ Figueroa Archila and Arias Méndez were also present during acts of intimidation and threats against the Peaceful Resistance La Puya in November 2012.⁷⁰



Mine employees advance toward peaceful protestors in an attempt to break up the peaceful blockade in 2012.

Photo: Rob Mercatante, Defenders Project

In 2012, Servicios Mineros del Centro de América, S.A. hired Selvyn Antonio Morales Valdez, a member of Military Academy Class 115 of 1988,⁷¹ who was Director General of Mining at the Ministry of Energy and Mines during the administration of Álvaro Colom (2008–2011). Morales Valdez held this public post until the end of 2010.⁷² Morales Valdez was also the Ministry of Energy and Mine's Department of Mining Control Coordinator during the administrations of Alfonso Portillo (2000–2004) and Oscar Berger (2004–2008) when Radius Gold was soliciting several exploration permits in the area of the El Tambor project, including for the *Progreso VII Derivada* concession.

Two other employees of Servicios Mineros del Centro de América, S.A., retired Lieutenant Pablo Silas Orozco Fuentes (Military Class 125 of 1993), who also served as EXMINGUA's Operations Manager, and contractor Juan José Reyes Carrera,⁷³ were sentenced on October 17, 2013 to two years of commutable imprisonment for the crimes of coercion and issuing threats against members of online media outlets, *Prensa Comunitaria* and *Centro de Medios Independientes*.⁷⁴ This took place while journalists were covering a November 2012 protest in which EXMINGUA employees attempted to break up the peaceful blockade and enter the mine site.⁷⁵ The defendants' attorney was Fernando Linares Beltranena, who is attorney to both EXMINGUA and Servicios Mineros del Centro de América, S.A., and whose track record is discussed in the following section.

Overall, KCA enjoyed significant protection from willing Guatemalan authorities working together with the company's militarized private security outfits from 2012–2014 to break the peaceful resistance movement. Court decisions in response to company appeals for more protection reveal the high-level coordination that was put in place involving military-style counterinsurgency tactics to advance the company's interests. This, combined with KCA's preference for hiring private security companies led by ex-military officers, raises troubling questions about what an even greater response from the government could have meant for the safety of members of the peaceful resistance.

4 KCA's leadership has been subject to arrest warrants and criminal investigation in Guatemala.

In its notice of arbitration, KCA describes the legal actions taken following the suspension of its project and accusations that the company was continuing to operate illegally. "...in May 2016, the Guatemalan Attorney General filed a criminal action against four EXMINGUA workers, claiming that they were carrying concentrate, and, thus, were illegally exploiting natural resources in contravention of the Guatemalan Court rulings. The four workers were detained and the concentrate they were carrying, which had been processed from product extracted before the Court had suspended EXMINGUA's exploitation license, was impounded. On 8 May 2018, a Court of Appeals acquitted the EXMINGUA workers, on the basis that it was not proven that the concentrate they were carrying had been extracted after EXMINGUA's license had been suspended. To date, however, the concentrate shipment remains impounded."

– Paragraph 58, notice of arbitration

After its operations were suspended by court order in 2016 for lack of prior consultation with Indigenous people, a criminal investigation was opened against four EXMINGUA employees for illegal extraction of minerals over its failure to abide by the suspension. In its notice of arbitration, KCA reveals that EXMINGUA employees were arrested. However, the company omits mention of the related criminal investigation that was opened and arrest warrants that were also issued at this time against its general manager, Hector Jacinto Vaides Medina, and president, Daniel Kappes,⁷⁶ while suggesting that any suspicion of criminal behavior is unfounded.

During the course of the investigation the National Police conducted three raids, one at the Soprana farm owned by family members of EXMINGUA's lawyer, Fernando Linares Beltranena.⁷⁷ As mentioned earlier, Linares Beltranena defended EXMINGUA employees convicted of coercion and threats against independent journalists covering the protests at the Peaceful Resistance La Puya in 2012,⁷⁸ as well as company employees and individuals who brought criminal accusations against members of the resistance. The former congressman has a track record of defending former high-ranking military officers involved in counterinsurgency operations,⁷⁹ drug trafficking,⁸⁰ and a scandalous case from the 1990s of sexual abuse of street children.⁸¹ In the early 1990s, the Attorney General's office appointed him as a special prosecutor in the case of the Ursuline nun,

Diana Ortiz, who was kidnapped and raped by the military. He was accused of covering up and diverting the investigation,⁸² although Beltranena denies these accusations, blaming the lack of justice on inconsistencies in the victim's testimony.⁸³ For his role in drug-trafficking cases, the U.S. government twice revoked his visa, in 2003 and 2009.⁸⁴ In 2017, the U.S. revoked Beltranena's visa for a third time,⁸⁵ reportedly for being an outspoken critic in the Guatemalan Congress against the head of the now-defunct International Commission Against Impunity in Guatemala and the U.S. Ambassador himself, Todd Robinson.⁸⁶ Linares Beltranena was a member of Congress from 2016-2019.

According to the press, dozens of bags of ore believed to be part of the illegal cargo removed from KCA's mine site were discovered on the Soprana estate.⁸⁷ During the raid of the mine site, authorities also found archaeological pieces that are thought to have originated from the mine.⁸⁸ Although the Environmental Impact Assessment of the *Progreso VII Derivada* license stated that the mine site did not contain archaeological sites, independent studies carried out at the San Carlos University of Guatemala demonstrate that there were.⁸⁹

Overall, as KCA reports, four mine employees found transporting cargo from the mine site were arrested on charges related to the illegal mineral extraction and were released shortly after. No arrests of company managers or high-level government officials have been reported. To the best of our knowledge, the arrest warrants for Kappes and the company's general manager were lifted, however, as of the time of writing, the investigation against Daniel Kappes and KCA's general manager in Guatemala remained open.

Indeed, aside from the current status, it is notable that KCA failed to disclose that its company leadership has also been under investigation, and subject to arrest warrants for criminal activity.⁹⁰

Conclusion

This report exposes the inaccuracies and omissions in KCA's main claims against the government of Guatemala in ICSID Case No. ARB/18/43. The company was well aware of the lack of community support for its project, but chose to push forward even when another mining company left in response to growing opposition and escalating conflict. Contrary to company claims, this report also reveals irregularities and illegalities in permitting, as well as regulatory violations. These were likely made possible due to KCA's favorable relationships with Guatemalan authorities and elite figures. The report highlights omissions in the companies' claims related to government protection of its project and the criminal investigation of its leadership. It also describes how the company made use of a militarized security apparatus, including private security outfits that coordinated with government armed forces, to threaten, criminalize, and repress the Peaceful Resistance La Puya. Without repression, the mine would not have operated from 2014–2016.

In its notice of arbitration, KCA tries to blame Guatemalan authorities for its failure to operate the *Progreso VII Derivada* project. Instead, legal actions and unwavering community opposition ultimately halted this unwanted and deleterious mine. In this context, KCA's arbitration is nothing more than an attempt by KCA to extract hundreds of millions of dollars from Guatemala, or to pressure the government into green-lighting a highly controversial gold mining project.



Women on the frontline of the struggle at La Puya. Photo: Rob Mercatante, Defenders Project

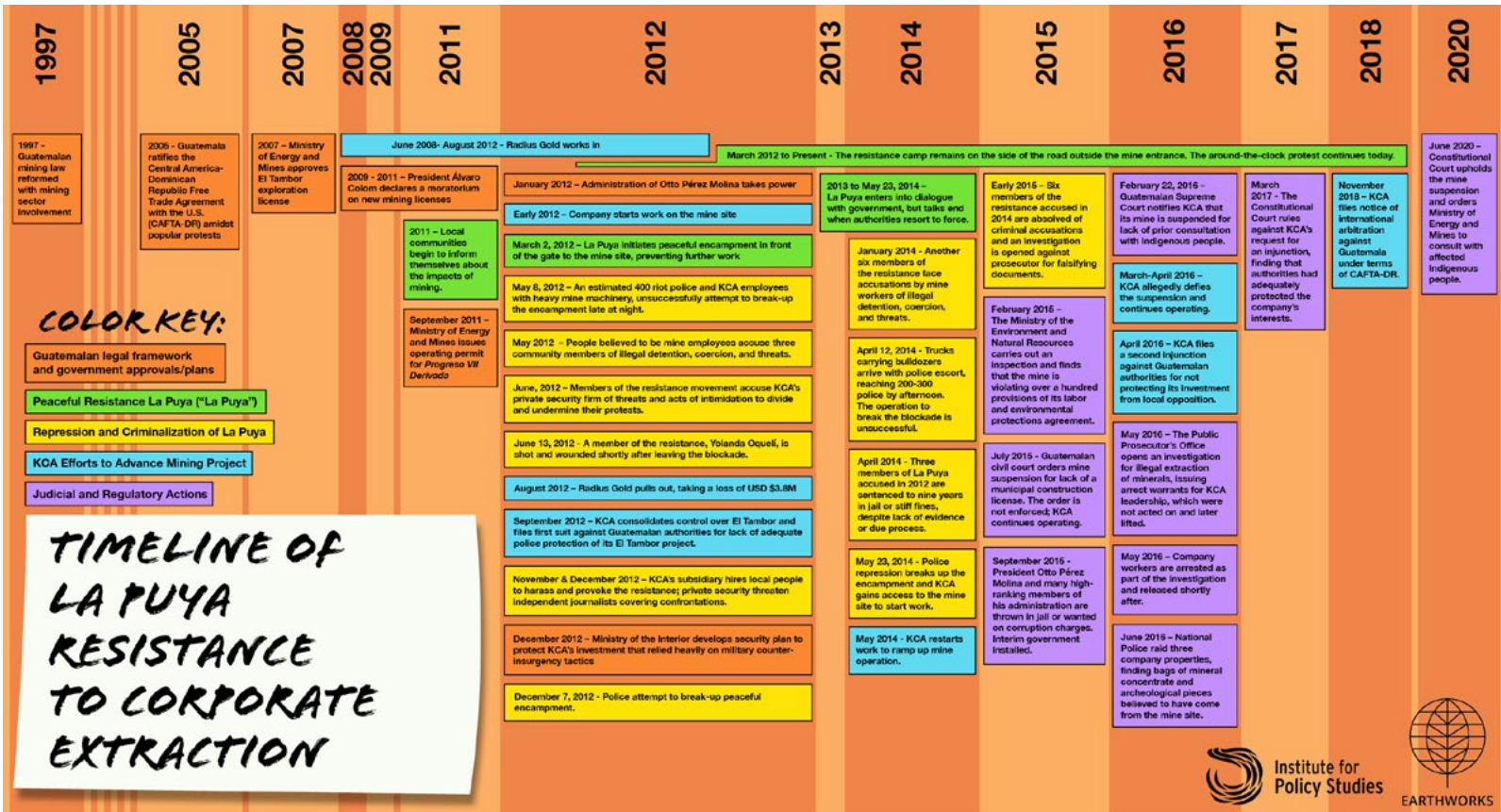
The fact that KCA has been able to bring a multimillion-dollar suit against Guatemala is evidence of the inherent injustice in the supranational ISDS system. It exposes the stark asymmetries in a legal system that pits corporations seeking compensation for lost potential profits up against communities peacefully trying to protect their water and health from the negative impacts of mining. Rather than having access to international arbitration, companies should rely on domestic courts to fight their claims. Frontline communities and national governments should be free to make decisions, enforce court orders, and implement policies and regulations to protect people and the environment without the threat of supranational arbitration.



Community members gather at La Puya. Photo: Rob Mercatante, Defenders Project

Rather than being empowered to bring a multimillion-dollar suit against the Guatemalan government, our findings suggest that KCA and its associates should instead be fully investigated for the violation of court orders and human rights violations against the communities of San Pedro Ayampuc and San José de Golfo. It is also urgent that both the Guatemalan government and KCA respect local opposition to gold mining in defense of clean water and community health, and stop pursuing this harmful project.

Timeline



COLOR KEY:

- Guatemalan legal framework and government approvals/plans
- Peaceful Resistance La Puya ("La Puya")
- Repression and Criminalization of La Puya
- KCA Efforts to Advance Mining Project
- Judicial and Regulatory Actions

TIMELINE OF LA PUYA RESISTANCE TO CORPORATE EXTRACTION



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- 55 Palacios, C. (2015, May 29). Una estrategia de deslegitimación de la protesta se esconde tras acciones legales [A strategy to delegitimize protest hiding behind legal actions]. *La Hora*. Retrieved July 16, 2020 from https://issuu.com/lahoragt/docs/diario_la_hora_29-05-2015/7
- 56 Esta Tierra Es Nuestra. (2014, April 7). Continúa la criminalización en La Puya [Criminalization of La Puya continues]. *Centro de Medios Independientes-Guatemala*. Retrieved July 16, 2020 from <https://cmiguate.org/>

[continua-la-criminalizacion-en-la-puya-030414/](#); Rivera, N. (2015, March 1). La Puya: ¿qué hay detrás de los juicios en contra de la resistencia pacífica? [La Puya: What is behind the accusations against the peaceful resistance?]. *Prensa Comunitaria*. Retrieved July 16, 2020 from <https://comunitariapress.wordpress.com/2015/03/01/la-puya-que-hay-detras-de-los-juicios-en-contra-de-la-resistencia-pacifica/>

57 Palacios, C. (2015, May 29).

58 Personal correspondence with the Peaceful Resistance La Puya, July 2020.

59 Chiquin, C. (2014, April 12). Estamos en nuestro derecho de defender la vida [We are within our rights to defende life]. *Prensa Comunitaria*. Retrieved July 16, 2020 from <https://comunitariapress.wordpress.com/2014/04/12/la-puya-estamos-en-nuestro-derecho-de-defender-la-vida/>; Esta Tierra Es Nuestra. (2014, April 7).

60 Guatemalan Constitutional Court. (2016, April 22). File 1904-2016.

61 Equipo de Análisis [Editorial Team]. (2015, May 26). SAAS del Presidente y azucareros detras de la seguridad de la mina [Secretary of Administrative and Security Issues of the President and sugar businesses behind mine security]. *Centro de Medios Independientes*. Retrieved July 16, 2020 from <https://cmiguate.org/la-seguridad-privada-en-la-puya/>; Bastos, S. & De León, Q. (2013, July 11). La Puya: En defensa del derecho a informar y opinar [La Puya: In defense of the right to information and freedom of opinión]. *Prensa Comunitaria*. Retrieved July 16, 2020 from <http://comunitariapress.blogspot.com/2013/07/la-puya-en-defensa-del-derecho-informar.html>

62 Equipo de Análisis [Editorial Team]. (2020, June). El proyecto minero El Tambor, KCA y la empresa EXMINGUA: actores e intereses corporativos [The El Tambor mining project, KCA and EXMINGUA: corporate actors and interests]. *El Observador, Special Report 25*. Retrieved July 16, 2020 from <http://www.albedrio.org/htm/otrosdocs/comunicados/EIObservador-InfomeespecialNo.25-2020.pdf>

63 It is important to note that Servicios Mineros del Centro de América, S.A. was established and registered by the Rivers & Associates law firm, whose experience and clients are focused in three industries: mining, oil, and energy. According to the Guatemalan Commercial Registry, the mining company was incorporated under the following description: “Analysis, planning, design, preparation of projects and their execution in the areas of mining, oil, energy, or other activities it carries out in the field of exploration, export, transportation, transformation of natural resources and engineering works in general; to represent all national or foreign entities and others listed in the certificate of incorporation.” The firm’s president is Carlos Fernando Rivers Sandoval, who has been a top director of the Union of Extractive Businesses. Rivers Sandoval currently leads, together with attorney Francisco Alejandro Quiñónez Midence, the Compañía Minera El Cóndor, S.A., a subsidiary of Canadian mining company Goldex Resources. Carlos Fernando Rivers Sandoval is better known as one of the nephews of Mario Sandoval Alarcón, the leader of the once ultra-right-wing National Liberation Movement (MLN) party, who died several years ago.

64 Since 2012, the administrative manager of this company is Claudia Cifuentes Bal, whose brother Juan José Leonel Cifuentes Bal is a member of the military, Class 133 of 1997.

65 Aguirre Calderón is the manager of Omega 2000, which belongs to the Protechteam Corporation and was founded in 1997 by Israeli national Moti Attias, an ex-agent of Israel’s secret service (Shin-Bet) (For more information, see: Balcárcel, P. (2015, July 31). ¿Quién es el dueño de los leones en la zona 14? [Who is the owned of the lions in zone 14?]. *Nómada*. Recovered July 16, 2020 from <https://nomada.gt/identidades/guatemala-urbana/el-dueno-de-los-leones-es-un-agente-secreto-israeli/>).

66 Chávez, S. (2019, March 10). Mecanismos para burlar los límites de la ley [Ways to make a joke of the extent of the law]. *PlazaPública*. Recovered July 17, 2020 from https://www.plazapublica.com.gt/multimedia/guate_armada/mecanismos_para_burlar_los_limites_de_la_ley.html; Also: Solano, L. (2012). El gobierno ‘seguro’ de Otto Pérez Molina y el PP [The ‘safe’ government of Otto Pérez Molina and the PP party]. *El Observador* 7(34-35). Recovered July 17, 2020 from <http://www.albedrio.org/htm/otrosdocs/comunicados/EIObservadorNos34-35enero-junio2012.pdf>

67 Observatorio de Conflictos Mineros de América Latina [Latin American Observatory of Mining Conflicts]. (2012, June 14). *Yolanda Oqueli lidereza de la resistencia contra la minería de oro víctima de atentado* [Yolanda Oqueli leads resistance against gold mine, victim of attack]. Recovered July 17, 2020 from <https://www.ocmal.org/yolanda-oqueli-lidereza-de-la-resistencia-contra-la-mineria-de-oro-victima-de-atentado/>

68 Ministerio Público [Public Prosecutor’s Office]. (2012, May 14). Case File No. 001/2012/64464. Found in

Papadopoulou, C. (2015). *La criminalización de la defensa de los derechos humanos en Guatemala: tres casos emblemáticos*. Forthcoming from the Plataforma Internacional contra la Impunidad.

69 Frontline Defenders. (2014, May 27).

70 Bastos, S. (2012, December 3). Miedo... ahora sí, mucho miedo [Fear... now yes, a lot of fear]. *Plaza Pública*. Retrieved July 16, 2020 from <https://www.plazapublica.com.gt/content/miedo-ahora-si-mucho-miedo>

71 The members of this graduating class (class 115 of 1988) are currently in the process of assuming high-ranking positions within the Guatemalan military.

72 He was replaced by geologist Guillermo Fernando Schell Álvarez, who has held the position ever since.

73 Reyes Carrera is the nephew of Héctor Silfredo Reyes Ortiz, municipal councillor in San José El Golfo for the now-defunct LIDER party. During the previous administration, he was counsellor for the governing Patriotic Party, during the period of greatest repression against community resistance to the mining project. He has been a municipal counsellor since 2003, starting with the GANA party and is one of the staunchest supporters of the mining project.

74 GHRC. (2013, October 18). *Employees of EXMINGUA-KCA plead guilty to threats against journalists*. Retrieved July 16, 2020 from <https://ghrcusa.wordpress.com/2013/10/18/employees-of-exmingua-kca-plead-guilty-to-threats-against-journalists/>

75 Bastos, S. & De León, Q. (2013, July 11).

76 Villatoro García, D. (2016, July 1). La Puya: Una comunidad en resistencia, una empresa insistente [La Puya: A community in resistance, an insistent company]. *Plaza Pública*. Retrieved July 16, 2020 from <https://www.plazapublica.com.gt/content/la-puya-una-comunidad-en-resistencia-una-empresa-insistente>; Also see: Valdez, M. (2016, May 31). Diputado acciona contra ejecutivos de La Puya [Congressperson acts against executives at La Puya]. *Siglo 21*. Retrieved July 16, 2020 from <http://www.guatemalaenlinea.com/2016/05/diputado-acciona-contra-ejecutivos-de-la-puya/>

77 Ministerio de Gobernación [Ministry of the Interior]. (2016, June 6). *Realizan allanamientos en minera la Puya [Raids carried out at La Puya mining project]*. Retrieved July 16, 2020 from <https://mingob.gob.gt/realizan-allanamientos-en-minera-la-puya/>; (2018, November 11). Los autofavores de Linares Beltranena. [The personal favors of Linares Beltranena.] *elPeriódico*. Retrieved July 16, 2020 from <https://elperiodico.com.gt/investigacion/2018/11/11/los-autofavores-de-linares-beltranena/>

78 De León, Q. (2013, November 8). Condenan a ex military: trabajador de una empresa minera por amenazas a periodistas [Ex military officer sentenced: Mining company employee for threats to journalists]. *Prensa Comunitaria*. Retrieved July 16, 2020 from <https://comunitariapress.wordpress.com/tag/mina-el-tambor/page/2/>

79 For example, Linares Beltranena has been the defense attorney for, among others, the *de facto* president, General Óscar Mejía Víctores, during the process of his extradition to Spain, which included General Efraín Ríos Montt. (See: Hernández, A. (2006, November 10). Mi tío no es prófugo. [My Uncle Is Not a Fugitive]. *La Hora*. Retrieved July 16, 2020 from <https://lahora.gt/hemeroteca-lh/mi-tio-no-es-profugo/>. Also: Fritz, T. (2017, December 21). Las tribulaciones de Skippy Linares. [The tribulations of Skippy Linares]. *Prensa Libre*. Retrieved July 16, 2020 from <https://www.prensalibre.com/opinion/las-tribulaciones-de-skippy-linares/>

80 Solano, L. (2017, June 24). El perfil de los cuatro diputados en la cuerda floja. [The Profile of Four Congressmen Walking the Tightrope]. *Centro de Medios Independientes-Guatemala*. Retrieved July 16, 2020 from <https://cmiguate.org/el-perfil-de-los-cuatro-diputados-en-la-cuerda-floja/>. Beltranena was the lawyer for the dismissed Congressman Manuel Castillo (recently murdered in prison) accused of being a drug lord and one of the intellectual authors of the murder of the Salvadoran MPs to the Central American Parliament (PARLACEN), which occurred in February 2007. He also defended Otto Salguero, who was involved in narcotrafficking and is currently under investigation in the U.S. (See: (2020, June 29). Los proveedores del “Chapo” Guzmán [The suppliers of “Chapo” Guzmán]. *elPeriódico*. Retrieved July 16, 2020 from <https://elperiodico.com.gt/investigacion/2020/06/29/los-proveedores-del-chapo-guzman-4/>). In addition, in the late 1990s and early 2000s Linares Beltranena was the defense lawyer in the case known as “The German Connection”, in which Nicholas Haenggi, Silvio Giovanoli, Andreas Haenggi (former manager of the Nestlé company in Guatemala), and the German Frank Schilling of Switzerland were accused and sentenced for international drug trafficking. Later, in 1999, Linares Beltranena also represented U.S. citizen Peter Paul Zink III, one of the ten most wanted men in the United States for drug trafficking and who was captured in Guatemala. Linares Beltranena is also

the attorney of retired General Francisco Ortega Menaldo, one of the main public figures of the military group called La Cofradía [The Brotherhood], who is accused of being one of the main organized crime and drug trafficking bosses in the country, and the “power behind the throne” of the Portillo government. (See: Solano, L. (2017, March 16). El estado guatemalteco, la contrainsurgencia y el crimen organizado. [The guatemalan state, counterinsurgency and organized crime]. *El Observador, Special Report 8*. Retrieved July 16, 2020 from <http://www.albedrio.org/htm/otrosdocs/comunicados/EIObservado-InformeEspecialNo.8-2017.pdf>)

81 Linares Beltranena had a hand in the legal defense related to the famous “Uncle Juan Case” in 1991, in which the U.S. citizen John Hugh Watterer (Uncle Juan), then director of Hogar Mi Casa, was accused of sexually abusing street children that the organization he had founded in 1976 was supposed to shelter. Hogar Mi Casa is an organization backed and financed by family and business elites who, after the whole affair was discovered, exerted enormous pressure so he would not be extradited to the United States. See: Solano, L. (2017, June 24).

82 (1992, April 10). U.S. Nun Returns to Guatemala to Tell of Rape. *The New York Times*. Retrieved July 16, 2020 from <https://www.nytimes.com/1992/04/10/world/us-nun-returns-to-guatemala-to-tell-of-rape.html>; Also: Estrada Tobar, J. (2017, January 4). El ‘último-dinosaurio’ se prepara contra MP-CICIG [The ‘last dinosaur’ prepares to argue against Public Prosecutor’s Office and International Commission Against Impunity in Guatemala]. *Nomadá*. Retrieved July 16, 2020 from <https://nomada.gt/pais/el-ultimo-dinosaurio-se-prepara-contra-mp-cicig/>

83 Estrada Tobar, J. (2017, January 4).

84 In 2003, the U.S. government revoked Linares Beltranena’s tourist visa because of his ties to drug traffickers that he had represented, including Ortega Menaldo, a military man considered a personal friend of Portillo, whose visa had also been revoked in August 2002, and who was being investigated by the Public Prosecutor’s Office (MP) at the time, for drug trafficking and smuggling along with four other military officers. In August 2009, after once again being denied a visa by the U.S. government, Linares Beltranena became a plaintiff by opening a legal case in Washington D.C., and hired the U.S. law firm W. Asa Hutchinson Law Group, to file suit against the U.S. government in order to get the visa. (See: Solano, L. (2010, August 12). Coyuntura de junio y julio: los nombres que relucieron. [June and July: The Names That Stood Out]. *El Observador. Revista Enfoque 9*. Retrieved July 16, 2020 from https://issuu.com/observadorguatemala/docs/enfoque_no_9_12_de_agosto_2010. Also: Fritz, T. (2017, December 21).)

85 Gramajo, J. & Barrientos, M. (2017, April 3). EE.UU. cancela la visa a diputado Fernando Linares Beltranena [U.S. cancels visa of congressperson Fernando Linares Beltranena]. *Prensa Libre*. Retrieved July 16, 2020 from <https://www.prensalibre.com/guatemala/politica/eeuu-revoca-visa-a-diputado-linares-beltranena/>

86 Fritz, T. (2017, December 21).

87 Equipo de Análisis [Editorial Team]. (2016, June 6). MP: confirmada explotación ilegal de La Puya [Public prosecutor’s office: Illegal extraction at La Puya confirmed]. *Centro de Medios Independientes – Guatemala*. Retrieved July 16, 2020 from <https://cmiguate.org/mp-confirmada-explotacion-ilegal-de-oro-en-la-puya/>; Also: Álvares, C. & Sánchez, G. (2016, June 6). MP clausura dos inmuebles de mina La Puya [Public prosecutor’s office chutters two properties of La Puya mine]. *Prensa Libre*. Retrieved July 16, 2020 from <https://www.prensalibre.com/guatemala/justicia/mina-la-puya-opero-de-forma-ilegal-segun-el-mp/>

88 Álvares, C. & Sánchez, G. (2016, June 6).

89 Castillo Taracena, R. (2017, November). *Reconocimientos y registros de patrimonio vivo comunitario y restauración de memoria histórica en las aldeas San José Nacahuil (San Pedro Ayampuc) y La Choleña (San José del Golfo)*. [Survey and registration of living community heritage and restoration of historical memory in the villages of San José Nacahuil (San Pedro Ayampuc) and La Choleña (San José del Golfo)]. San Carlos University of Guatemala, School of History, Institute of Historical, Anthropological and Archaeological Research (IIHAA). Atlas Project on Heritage at Risk (PAPR). Critical Archaeology Studies Conducted in the Las Vacas River Basin Stage 2. See also: Castillo Taracena, R. (2016). Stage 1.

90 De León, Q. (2013, November 8). Also: Villatoro García, D. (2016, July 1).