

Congress of the United States
Washington, DC 20515

September 14, 2023

The Honorable Antony Blinken
Secretary of State
US State Department
2201 C St. NW
Washington, DC 20520

Dear Secretary Blinken,

We write to share our grave concern for the security of the Xinka people in Guatemala, whose lives have been threatened and in some cases taken in response to their opposition and resistance to the Escobal silver mine in southeastern Guatemala. Moreover, we are concerned that the silver company involved is violating international standards that require free, prior and informed consent of Indigenous people.

The Escobal underground mine is a silver project located in the Department of Santa Rosa in southeastern Guatemala. Since 2011, Xinka Indigenous people and farming communities have defended their territory from the mining project due to legitimate concerns about the mine's impact on water resources, cultural sites, and local self-determination.¹

The Xinka people have experienced significant abuse as a consequence of this understandable position. The mine's original owner forced the mine into commercial production in 2014 using violent repression and a campaign to defame and criminalize opposition leaders.² In 2013, the mining company's private security forces opened fire on peaceful protesters, injuring six people and ultimately leading to a civil lawsuit in Canada whereby the new company operating the mine (Pan American Silver) took responsibility for the shooting and other human rights violations.³ But all other acts of violence — including murder — against the Xinka people for their opposition to the mine currently remain unpunished.

The Guatemalan courts have suspended the Escobal mine's operations since 2017 due to the government's failure to uphold its obligation to consult with the Xinka people who live there. In September 2018, the Guatemalan Constitutional Court ordered a consultation process; yet until 2020, the Xinka people were excluded from participation in the consultation.⁴ The process finally

¹ "Voices from the Resistance," Resist Escobal, <https://www.resistescobal.com/>.

² "State of Fear and Terror Deliberately Created to Force Tahoe Resources' Mine on Guatemalan Communities – Report," MiningWatch Canada, <https://miningwatch.ca/news/2015/11/11/state-fear-and-terror-deliberately-created-force-tahoe-resources-mine-guatemalan>.

³ "The Civil Lawsuit in Canada," Resist Escobal, <https://www.resistescobal.com/the-civil-lawsuit-in-canada/>.

⁴ "REPORT: Guatemalan government discriminates against Xinka, puts Escobal mine consultation at risk,"

began after an October 2020 agreement between the Xinka people and the Guatemalan government, and the first phase (a study on the cultural and spiritual impacts of the mine on Xinka traditions and agreements on information disclosure) was completed in July 2022.⁵

Unfortunately, the actions of the Guatemalan government and Pan American Silver have impeded the consultation process. The Guatemalan government failed to secure funding required by the Constitutional Court for technical experts to carry out the next phase of the process, forcing the Xinka people themselves to fund this necessary work. Pan American Silver continues to fund social programs in Xinka communities and involve itself in regional development councils despite the court order to suspend operations, further threatening the free nature of the consultation. All the while, the Xinka people have faced retribution for defending their human rights; intimidation, attacks, and defamation against Xinka leaders and members of the consultation process have continued since the effective start of the process in October 2020.⁶

For these reasons, we are deeply concerned about the security of community members who are active in the resistance to the Escobal mine and Xinka leaders participating in the consultation process, and about potential violations of international law, which requires the free, prior and informed consent of Indigenous peoples prior to approval of development projects that will affect them.

There is an urgent need for the Inter-American Commission on Human Rights to extend precautionary measures to five members of the Xinka community beyond the one for whom the Commission has already granted such measures.⁷ We urge the State Department, in coordination with the U.S. Embassy in Guatemala, to advocate for such measures and provide support to ensure an effective response in the event of any further repression of the Xinka people.

Additionally, the State Department should publicly affirm the Xinka people's right to free, prior and informed consent and self-determination. Our government must clearly convey that any attempt to regulate the right of Indigenous peoples to prior consultation without their effective participation and consent, and which does not recognize the right of Indigenous peoples to self-determination and free, prior, and informed consent, would be inconsistent with international law.

Earthworks, <https://earthworks.org/resources/report-guatemalan-government-discriminates-against-xinka-puts-escobal-mine-consultation-at-risk/>.

⁵ "Guatemalan Mine Consultation Enters New Phase," Resist Escobal, <https://www.resistescobal.com/guatemalan-mine-consultation-enters-new-phase/>.

⁶ "195 international organizations denounce latest attacks against members of the Peaceful Resistance to Escobal mine," Resist Escobal, <https://www.resistescobal.com/195-international-organizations-denounce-latest-attacks-against-members-of-the-peaceful-resistance-to-escobal-mine/>.

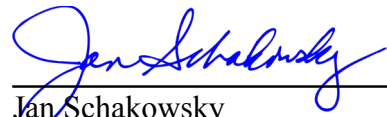
⁷ "IACHR Grants Precautionary Measures for Quelvin Jimenez Villalta," Robert F. Kennedy Human Rights, <https://rfkhumanrights.org/press/iachr-grants-precautionary-measures-for-quelvin-jimenez-villalta>.

This situation represents an opportunity for the State Department to affirm the basic concept that Indigenous people's rights should not be trampled so that multinational corporations can hastily profit from resource extraction in violation of international law. We urge you to prioritize this issue during the post-election transition, pay close attention to this rapidly developing situation, insist on further protections for Xinka leaders and community members, and monitor the potential for grave violation of human rights.

Sincerely,



Cori Bush
Member of Congress



Jan Schakowsky
Member of Congress



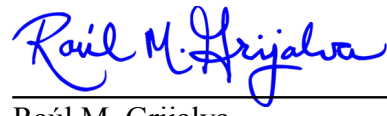
Ilhan Omar
Member of Congress



Sydney Kamlager-Dove
Member of Congress



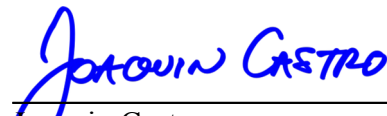
Greg Casar
Member of Congress



Raúl M. Grijalva
Member of Congress



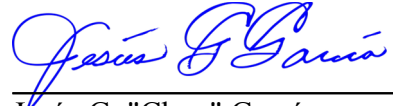
James P. McGovern
Member of Congress



Joaquin Castro
Member of Congress



Jamaal Bowman, Ed.D.
Member of Congress



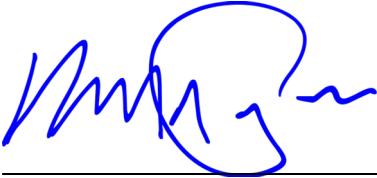
Jesús G. "Chuy" García
Member of Congress



Rashida Tlaib
Member of Congress



Alexandria Ocasio-Cortez
Member of Congress



Mark Pocan
Member of Congress