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Master's thesis in Human Geography

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# **The community consultation as a strategy against mining:**

A study of repertoire change in anti-mining resistance in Guatemala.



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Per Øveraas

November 18<sup>th</sup>, 2013

# List of abbreviations

<b>CACIF</b>	The National Chamber of Commerce and Industry
<b>CAFTA-DR</b>	Dominican Republic-Central American Free Trade Agreement
<b>CALAS</b>	Centre for Legal, Environmental and Social Action
<b>COCODES</b>	Village development councils
<b>COMUDE</b>	Local development committee
<b>COPAE</b>	Pastoral Commission for Peace and Ecology
<b>CPO</b>	Peoples Council of the West
<b>CSO</b>	Civil Society Organization
<b>EIA</b>	Environmental Impact Assessment
<b>FDI</b>	Foreign Direct Investment
<b>FSM</b>	Sierra Madre Foundation
<b>ILO</b>	International Labour Organization
<b>ILO169</b>	Indigenous and Tribal Peoples Convention, nr. 169
<b>MARN</b>	Ministry of Environment and Natural Resources
<b>MEM</b>	Ministry of Energy and Mines
<b>NGO</b>	Non-Governmental Organization
<b>NSM</b>	New Social Movement
<b>RMT</b>	Resource Mobilization Theory
<b>TNC</b>	Transnational Corporation

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# 1 INTRODUCTION

Guatemala has many of the desired conditions, geologically and politically-economically, for international large-scale mining. It is geologically well endowed with nonferrous metals (metals other than iron), such as copper, gold, zinc, nickels, silver and lead, and also uranium, and the vast majority of these natural resources have become available with the end of the civil war and the ensuing political stability (Holden & Jacobson, 2008). Decades of neoliberal reforms have provided transnational capital with ideal politico-economic conditions, enabling Guatemala to become of the lowest-cost gold producers in Latin America, if not the world. The controversial Canadian-owned Marlin goldmine in the indigenous-dominated mountainous Western Guatemala (commonly referred to as the Western Highlands) is Goldcorp's lowest-cost mine, exemplifying the advantageous conditions for transnational capital in Guatemala (Dougherty, 2011). Subsequent governments have lauded mineral extraction as path to economic prosperity, intensively lobbying for foreign direct investment (FDI) in many areas, especially mineral extraction. The result has been a boom in FDI in mining. According to data by the Department of Energy and Mines (MEM) in October 2013<sup>1</sup>, there are 108 total active licenses for metal mining; zero for surveying, 75 for exploration and 33 for exploitation. And 350 licenses are being processed by MEM.

The licences cover 20 out of 22 departments, principally located in the departments of Izabal, San Marcos, Huehuetenango and Alta Verapaz, departments principally populated by indigenous peoples (van de Sandt, 2009). Both the historical and contemporary policy environments in Guatemala regarding mineral extraction help explain the nature of mining. The authorities have created an environment where mining companies relentlessly seek lower productions costs though shortcuts in environmental and social management in complex and vulnerable natural and social settings. This short-sighted, rent seeking behaviour has led to major environmental and social conflicts with local communities (Dougherty, 2011).

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<sup>1</sup> <http://www.mem.gob.gt/viceministerio-de-mineria-e-hidrocarburos-2/estadisticas-mineras/> Accessed 09.10.13

This increase in mining FDI inevitably led to major social and environmental conflicts with the construction of the Marlin mine in the indigenous-dominated Western Highlands in 2004 by the Canadian mining company Goldcorp.



**Figure 1. Map of the Marlin mine in Guatemala. Source: [www.maps.google.com](http://www.maps.google.com)**

The mine has been extremely controversial, fostering major resistance and conflict at the local, national and international level. The mine's presence has caused a multitude of grievances, particularly in the mine's adjacent communities of San Miguel Ixtahuacán and Sipacapa. While resistance started in Sipacapa and San Miguel Ixtahuacán against a single mine, the Marlin mine,

it has grown and coalesced into a regional movement in resistance of any mineral extraction in their territories and of neoliberal development in indigenous territories.

## 1.1 Grievances to mining

Understanding *why* communities choose to oppose mining is an integral part of unravelling the complexities of the anti-mining conflict in the Western Highlands. *Why* do communities oppose a seemingly win-win economic activity? To understand the immensity of the Marlin mine's presence, it is important to establish that large-scale industrial mining, such the Marlin mine, was a new phenomenon in the Western Highlands. The civil society in the Western Highlands was caught unprepared for the complexities of mining and the consequences mining could have.

“No one had any experience with a mine. There were even people who said it was good, people who said it was bad. So, we had never had anything like this. The church itself

thought, “*well, we should talk with them, find out what’s going on*”” (Teresa Fuentes, COPAE, interview).

The civil society and community leaderships were in disarray during the lead-up to the constructions of the mine. There was a lack of information from the state and Montana, and the civil society and communities lacked technical expertise and knowledge on mining, and there was little coordination between and within organisations and communities involved in the conflict (Teresa Fuentes, COPAE, interview).

A major overarching theme in the resistance is the inextricable incompatibility between the mining and the indigenous *cosmovisión*, or worldview. This theme has framed their understanding of mining as indigenous subjects opposing a foreign and destructive developmental model. Anonymous 1 (interview) explains that the Marlin mine has caused indigenous people to lose elements of their culture and identity, and that the mine is tearing at the social fabric of communities, causing a slow disintegration of their traditional way of life. The fear of long-term cultural loss by way of mining equates to a policy of *ethnocide*, in that mining will deprive indigenous people of their land and change their cultural and social relationships (Holden & Jacobsen, 2008).

The uneven distribution of revenue from mining is also a source of conflict and resentment. The state’s royalty in mineral extractions was reduced from 6% to 1% to attract mining FDI, and a mere 5,1% of revenue from Marlin collected by the government gets distributed to the communities of San Miguel Ixtahuacán and Sipacapa. Comparatively almost 90% of economic benefits generated by the mine flow to the national government and to workers and businesses outside of the two communities (Zarsky & Stanley, 2011). Montana Exploradora (Goldcorp’s subsidiary in Guatemala, in charge of the Marlin mine) has attempted to address aspects of the uneven income distribution by agreeing to a voluntary increase in royalty payments. However such attempts have been viewed as a strategy of whitewashing by communities experiencing conflict (Anonymous 1, interview).

### ***1.1.1 Loss of land***

One of the more serious consequences experienced by the mine-adjacent communities of San Miguel Ixtahuacán and Sipacapa is the loss of access to land close to the mine. Montana was plagued by allegations of a land-acquisition process characterized by misinformation, intimidation, pressuring, confusion and illegality (Anonymous 1, interview). Montana has

defended their actions stating it was in accordance with the law, and Montana has furthermore downplayed the communities' cultural attachment to their land. This strategy of denying traditional modes of production, essentially undermining their indigenusness, is according to van de Sandt (2009) an evasion of the company's legal obligations under the convention ILO169, which Guatemala ratified in 1996. Today most of the 1500-2000 inhabitants in the mine-adjacent communities live in a difficult and adverse situation, with few job opportunities after the labour-intensive construction phase. The possibility of acquiring land elsewhere is very limited due to collective land reserves being long exhausted (van der Sandt). Teresa Fuentes (COPAE, interview) shares this worry, "[...] if you had the chance to have a look around the communities around the mine, you will notice that there is no space where people don't live." In the same way, Fernando García (COPAE, interview) also shares this concern, "When you notice the geology of Guatemala, of how Guatemala is geographically, of the population density, you tell yourself hell, you can't have mining here!". The only remaining available land in the municipalities of San Miguel Ixtahuacán and Sipacapa is unsuitable for agriculture, and has been settled by foreign workers. They brought with them new and foreign social patterns (e.g. western consumerism) and social problems (alcoholism, gun carrying, prostitution) into the indigenous communities caused more conflict (Anonymous 1, interview). For many families, finding suitable land outside of Sipacapa or San Miguel Ixtahuacán entailed severing ties with their communities, an impossible option for many. The dispossession of land is one of the most tangible and dramatic effects, according to van der Sandt (2009). It has deprived impoverished families of their livelihoods, and further marginalized them, and has negatively affected the social cohesion of the indigenous communities. However, while the mine has adversely affected the social cohesion of indigenous communities, it has at the same time fostered social cultural activism, which has revitalized parts of their culture.

### ***1.1.2 Environmental impacts***

Mining has a substantial potential for environmental harm. A large-scale open pit gold mine involves significant alternations to the physical landscape, stressing the local ecosystem through deforestation and the removal and storage of millions of tons of rock. According to Montana's own Environmental Impact Assessment (EIA), Marlin has to pulverize up to one ton of rock to obtain one ounce of gold. Thirty-eight million tons of rock waste will be generated during Marlin's lifetime (van de Sandt, 2009). Open pit gold mining may lead to

serious water contaminations. The first aspect stems from heavy metal contamination in the form of cyanide contamination and acid mine drainage. The gold extraction process is an extremely water intensive cyanide-based process where ore is mixed with cyanide-water in a chemical process that extracts the gold from the ore. The wastewater from that process is then stored in an enormous tailings dam that has to periodically discharge water into nearby rivers (van der Sandt, 2009). Montana claims that wastewater discharged into nearby rivers is free of contaminants, however numerous civil society organizations have reported higher than normal levels of numerous contaminants (e.g. COPAE, 2008; Basu & Hu, 2010; Bianchin, 2008).

A test conducted by Physicians for Humans Rights found higher levels of urinary mercury, copper, arsenic and zinc in mine-adjacent rivers, and elevated levels of blood aluminium, manganese and cobalt in individuals residing near the mine (Basu & Hu, 2010). There is also concern that Marlins water consumption of 250,000 litres pr/hour for the cyanide gold extraction process will alter the water levels in the underground aquifer, from which Marlins acquires water. There is concern that in the long term, Marlin will cause water shortage, which will reduce agricultural output (van der Sandt, 2009; Anabella Sibráin, Plataforma Holandesa, interview). There is also concern that the tailings dam is vulnerable to dam failure in the event of a major earthquake, as Marlin is located 30km from the Polochic fault line (Castagnino, 2006). The second aspect to water contamination is long-term acid mine drainage. This refers to a chemical process that occurs naturally when exposed ore and waste rock reacts to oxygen and water, causing a slow and long-term drainage of acid water. Once this process starts it will be impossible to stop and will require permanent water treatment and monitoring (Holden & Jacobsen, 2008). The cumulative consequences of Marlin's environmental impacts disproportionately affect the rural poor; families dependent on local natural resources for smallholder subsistence agriculture. Any environmental disruptions will negatively affect their livelihoods, and lead to enhanced marginalization and impoverishment (Holden & Jacobsen, 2008).

### ***1.1.3 Social impacts***

The mapping of socio-economic impacts has been given little attention, with environmental impacts being focused upon. Montana's own EIA ignores significant social, economic and cultural impacts on the communities of San Miguel Ixtahuacán and Sipacapa, tending to focus of positive economic effects (van der Sandt, 2009; Ekaterina Parilla, MEM, interview;

Dr. Yuri Melini, CALAS, interview). While Marlin has increased the quality of life in terms of income for a small groups of families, the quality of the jobs have been poor. Most lower-paid jobs have gone to community members, while outside workers have been hired for higher-level jobs. The number of jobs peaked with 870 local people during construction phase, and that number is much lower now (Zarsky & Stanley, 2011). Montana's employment of community members has itself created social division within and between communities in terms of families 'who have' (employment and income), and families 'who have not'. Given high rates of poverty and unemployment, and the relatively high wages in the mining sector, Montana has created an income gap between Montana-employed community members and the remaining community members living of subsistence farming. Exacerbating the problems related to the income gap has been that the Montana-employed foreign workers have introduced new consumption patterns of food, clothing and consumer goods (van der Sandt, 2009; Anonymous 1, interview).

Competition for water access has been another aspect to Marlin's social problems. Montana purchased a number of private water sources, such as streams and springs to supply water to workers and mine-adjacent communities that had water cut off. This created a situation where Montana maintained control of water, and the price of water rose. Unrest and conflict grew between water clients and providers within and between neighbouring communities (van der Sandt, 2009; Anonymous 2, interview). While the issue of intercommunity water competition seems to have been resolved (van der Sandt, 2009), there are still major concerns connected to access to water and water quality.

Montana's response to increasing levels of conflict has intensified the conflict. Instead of reaching out to the communities to find solutions, Montana has actively promoted the division of communities as a tactic of undermining opposition (van der Sandt, 2009). Montana has, according to Fernando García (COPAE, interview), exclusively focused on the positive aspects of the mine's presence and the work carried out by its own local development organization *Foundation Sierra Madre*. Montana has furthermore, directly and indirectly, attempted to delegitimize independent water quality studies by local civil society organizations, calling into question the standard and technical expertise of the laboratories and their staff (Fernando García, COPAE, interview). Montana has even attempted to garner (buy) the support of Sipacapa by offering a €100,000 'gift' to the municipality (which was turned down), as well as promises of jobs, development and small developmental projects. Montana response to growing opposition has also a more subversive side to it. The land

acquisition process was beset with allegations of illegality and intimidation, and that Montana led an aggressive, individual-oriented negotiation campaign that purposely avoided local traditional authorities. Montana was allegedly behind intimidation of community leaders, as well as anonymous smear campaigns and threats to anti-mining activists (van der Sandt, 2009). Montana and the local authorities have in many occasions resorted to criminalizing anti-mining resistance to force community leaders and members into compliance (van der Sandt, 2009, Holden & Jacobsen 2008; Yagenova & Garcia, 2009; Yagenova, Donis & Castillo, 2012). The presence of a private contingent of armed security guards, many believed to be former army soldiers, is to the civil society a method of intimidating communities into ceasing opposition to the mine (Holden & Jacobsen, 2008).

The social impacts on the communities closest the Marlin mine are wide ranging and perhaps the most significant aspect to the mining conflict in the Western Highlands. They encompass cultural and physiological losses that arise from the disarticulation of forms of social organizations (van der Sandt, 2009), but also the loss of land and livelihoods. The study of Marlin's social impacts, in particular in terms of the indigenous context, has been understudied and ignored by Montana and the authorities.

Concerns about environmental and social affects on the rural poor have created a major regional anti-mining movement. Resistance commenced locally against the Marlin mine in San Miguel Ixtahuacán and Sipacapa, but evolved with time and experience into a multiscale regional resistance to the *possibility* of mining in the Western Highlands. This qualitative and quantitative change in resistance coincides with the adoption of an international mechanism of political participation as part of the repertoire of resistance. The international convention number 169 from the International Labour Organization (ILO169) regulates the rights of indigenous and tribal peoples, and more specifically accords indigenous communities the right to hold local community consultations on issues that affect their way of life. To the anti-mining movement in the Western Highlands, ILO169 became a game-changer, giving communities a powerful tool to combat mining. It provided the communities with a tactic to resist mining as well oppose neoliberalism and the dispossession of their livelihoods.

## 1.2 Purpose and relevance of the thesis

The anti-mining resistance started as local opposition in the communities of San Miguel Ixtahuacán and Sipacapa to local environmental and social grievances caused by the Marlin mine. As the conflict matured, opposition to mining grew quantitatively to include more communities from more municipalities in more departments. The resistance evolved qualitatively as well. What started as local opposition to the Marlin mine and its environmental and social impacts, grew into a regional anti-mining movement in resistance of a more abstract concept; the threat of mining which entails a neoliberal development model. Resistance to a tangible threat (mining licences in indigenous territories) and a more abstract threat (neoliberal development) is now centred on the community consultation as the main tactic in the social movement's new repertoire of resistance. The change of resistance to the community consultations is not an incidental event, but a rational strategy shift that has produced more results, but that also resonates with their identity as indigenous peoples. Communities in resistance that have held community consultations invoke the authority and legitimacy of international law (ILO169), and political power from its democratic and participatory nature. The community consultations are furthermore connected to their indigenous identity and their Maya worldview. It is considered an ancestral principle that determines the participation and the people's decision-making, according to the indigenous organization CPO (2012). The use of consultations to combat mining has in turn helped indigenous communities define their essential character; *indigenous* subjects in defence of territory.

Despite the significance tactics, strategies, as well as identity, play in social movements, there has been little research, according to McCammon (2003) on the social dynamics that influence social movement strategies. And little research exists on the relationship between indigenous identity and repertoire choices in social movement theory. And given the indigenous context of this mining conflict, more research that explains the relationship between identify and repertoire choice is warranted to understand the complexities of such a social conflict. There is also little general empirical social movement research on major changes in the strategies and tactics of social movements, and few competing explanations related to changes in strategy (McCammon, 2003). While McCammon's research was from 2003, I argue this lack continues to this day. This lack of research omits a major explanatory component in the dynamics driving social change. Indeed, social movements are subject to



internal and external pressures that affect their structures and processes, as well as the success in attaining goals. They respond to contextual factors in the larger society, to its relations with other movements, and more importantly to successes or failures (McCammon, 2003).

The overarching objective of this thesis is to understand how mining resistance has changed, and investigate *why* and *how* the community consultation has become such a powerful and popular tactic against mining. I will therefore analyse the dynamics of the anti-mining movement, and how global context has influenced repertoire change. I will discuss how that repertoire change developed, what it has achieved and its limitations as a strategy. The objectives have also a normative aspect. Considering the difficult and complex situation of the indigenous communities in the Western Highlands, I hope my findings can be of use to the protagonists in the Western Highlands, and to foster understanding of how collective action can promote equitable social change.

### **1.3 Research questions**

To answer the aforementioned questions, this thesis will answer the following research questions:

- (1) Why did the anti-mining movement turn to community consultations as the main tactic in the repertoire of resistance?
- (2) What has been achieved through this repertoire change so far?
- (3) What can be learned from these experiences regarding the limitations of this form of resistance?

For the sake of clarity, I shall present an outline the structure of the thesis. Chapter *one* introduces the conflict by explaining *why* there is a conflict in the Western Highlands. The relevance and purpose of the thesis, and the research questions, are also presented. Chapter *two* discusses the methodological choices made during the thesis, and what influenced the findings. Chapter *three* provides background information to the conflict by presenting the Marlin mine, the actors, the ILO169 convention and the indigenous communities' complex situation. Next follows a tri-chapter theoretical framework that integrates different aspects essential to analysing the repertoire change. It will in chapter *four* integrate theory on mining as a historical and global disposessive process, and in chapter *five* theory on indigenous identity and how it influences collective action, and finally, in chapter *six* theory on social movements and the importance of scale and repertoires. What follows next is the analysis in

three chapters: Chapter *seven* analyses how resistance has changed and its characteristics. Chapter *eight* analyses what the repertoire change has achieved, and chapter *nine* analyses the limitations of the community consultation as a repertoire of resistance. Finally, in chapter *10*, I provide some concluding remarks.

## 2 METHODOLOGY

Clarifying methodological choices are important to understand research findings by considering how research is conducted and how knowledge is constructed and understood.

This thesis is a qualitative single-case study of the anti-mining resistance in the Western Highlands of Guatemala, and the use of community consultations as a strategy. The thesis builds on fieldwork conducted in Guatemala from August 1<sup>st</sup> to September 14<sup>th</sup> 2012<sup>2</sup>, with majority time spent in the capital, Guatemala City and San Marcos, which is closer to the communities in resistance. The fieldwork process is based in the idea of knowledge situated in space, conceived as going out there to conduct qualitative methods and coming back to write about it (Sæther, 2006). As follows, I completed 10 interviews with mainly national and local civil society actors, as well a representative from the Department of Energy and Mines. In addition to the formalized interviews, I had many informal conversations and chats with community members and informants, which gave me contextual and complementary information.

My approach to the topic of a mining conflict and community resistance, as well as much of the fieldwork research was done inductively, letting knowledge and data from the fieldwork lead to theorizing and insight. This *grounded theory* approach emphasizes that the researchers knowledge of ‘theory’ should develop from their roots, therefore be grounded, in the concepts voiced out of my subjects (Cloke et al., 2004). I had chosen the setting (mining conflict in Guatemala), and let the nature of the setting shape the development of the research question as well the research process. As Hammserley & Atkinson (2007) point out, the collection of data plays an important role that process of development.

Research is an inherently social process. Knowledge attained from the interactions of two or more individuals (such as the interview) always occurs in a wider social context. Societal norms, expectations of individuals and structure of power influence these interactions (Dowling, 2010). The social relations between society, the researcher and the research are all interwoven, and the researcher must acknowledge the many influences on the social nature of the research.

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<sup>2</sup> One interview was conducted in December 2012 during a personal visit to Guatemala.

In addition to the social nature of research, the *constructed* nature of data must also be acknowledged. Data is not found in a vacuum, mediated by the researcher in a social context (Dowling, 2010). They are ‘intersubjective’ truths, as opposed to ‘realities extracted from the field’. It is therefore important for the researcher to appreciate the social conditions in which the data was constructed, the reasons why data was constructed in a specific way, and the possibilities and the limits of this pre/self-constructed data (Cloke et al., 2004).

## 2.1 The qualitative method

The qualitative method has two main areas of research, *social structures* and *individual experiences*, elucidating human environments and human experiences through a variety of conceptual frameworks (Winchester & Rofe, 2010). Qualitative research is typically grounded on four methods of gathering information; (1) participation in setting, (2) direct observation, (3) in-depth interviewing and (4) analysing documents and material culture (Marshall & Rossman, 1998). This thesis is based primarily on data collected from in-depth interviews, direct observation and the analysis of documents and material culture.

The topic of *resistance* is a sensitive topic, and successful fieldwork depends on building relationships of trust between the researcher and the informants. Due to the heightened levels of conflict an informant could potentially face unintended negative consequences from proponents of the mine (community members, company people or authorities). The qualitative method, particularly through the in-depth interview permitted me to personally be present at the locality, talk face-to-face with the informants, as well as have informal chats about the research topic and other things. This type of fieldwork ‘investment’ undoubtedly made the informants feel more comfortable sharing sensitive data with me.

Another important aspect is to elaborate is the *interpretive* quality of the in-depth interview. My aim as a researcher has been to deepen my understanding and knowledge of the social conflict in Guatemala *through* my informants, essentially understanding what I found during fieldwork. The attained knowledge is the result of an interpretation mediated by the wider social life, the researcher and the informant. As Cloke et al. (2004) emphasizes, the interviewer is strongly implicated in the construction of meaning in interaction with the informant. This *intersubjectivity* can be understood as the “meanings and interpretations of

the world created, confirmed, or disconfirmed as a result of interactions (language and action) with other people within specific contexts” (Dowling, 2010, p. 35). The informant is an active subject, taking part in mediating and negotiating with the interview, consciously assembling and modifying answers to questions (Cloke et al., 2004). Because interviewing is social interaction, intersubjectivity will be unavoidable, and conscious acknowledgement of this phenomenon will permit a deeper understanding, but at the same time raise several interesting methodological questions; *How* is meaning is constructed? How have my questions *affected* the consciousness of the informants?

### **2.1.1 The qualitative interview**

Interviewing is frequently used in human geography and an excellent method of gaining access to information about events, opinions, experiences as well as diversity of meaning (Dunn, 2010). The purpose of the qualitative interview is to gain access to the *meanings* which people attribute to their *experiences* of these worlds (Cloke et al., 2004). Interviewing is the main approach used in my fieldwork, and my subsequent analysis principally builds on the knowledge I acquired from formal in-depth interviews. I conducted 10 in-depth interviews with different informants, from central actors in the anti-mining movement, participants in the anti-mining movement, members of capital based NGOs, as well as a representative of the Ministry of Energy and Mines.

There are three principal approaches to carrying out the qualitative interview; on one end the *structured* interview, where you have the questions, structure and order of the interview planned in advance. The unstructured approach, where the interview does not follow predetermined questions or structure, and is more akin to conversation. I chose for my interviews the *semi-structured* approach, which has some degree of predetermined order, but maintains flexibility in ways issues are addressed (Dunn, 2010). I chose this method because I could enter the interview with several questions and overarching topics that needed to be covered, at the same time allowing for the interview to flow in a natural way. By allowing the informant to ‘lead’ or ‘steer’ the path of the interview, I uncovered what the informants thought was important to talk about, their concerns and ideas, as opposed to preconceived notions I might have had before the interview. The semi-structured approach allowed for considerable flexibility, and I could add/omit questions or change the order or form of questions if needed. Despite the flexibility, some order and structure is needed to determine what is important or relevant to the research question(s)(Dunn, 2010).

Successful interviews require careful planning and detailed preparation (Dunn, 2010). Before the fieldwork I carefully constructed an interview guide with a list of questions and topics that I wanted to cover during the interview. The interview guide helped me 'navigate' the interview, and this gave me security and confidence, especially with the ebb and flow of the conversation. The semi-structured interview guide also allowed for modification for each informant, as the questions to a bureaucrat differs from those to an illiterate peasant. The interview guide started with general questions that are simple to answer and non-threatening to warm up and initiate discussion, and then secondary questions to encourage the informant to reflect and abstract or expand on something. The interview process was somewhat challenging at first, being unfamiliar in this formalized setting as well as the foreign country. However, with practice the process became more comfortable, which resulted in better interviews. With each completed interview I gained more insight and knowledge, which reflexively affected the interview guide in the next interview. As I learned more about the social conflict I was researching, I learned to ask better questions and interview with more confidence.

The majority of the interviews were recorded with a digital audio tape recorder, and complemented with note-taking when and if necessary. The use of the recorder (and note-taking) was always consensual, and each informant was carefully explained about the confidentiality of the audio file, and how data from the interview was to be used and handled. Recording the interview has several advantages to note-taking or remembering by memory. It allowed the conversation to flow naturally, and let the researcher retain attention, and eye-focus on the informant (Dunn, 2010). Taping produces a more accurate record of the interview, eliminating interpretation and speculation in that phase of the data collection. This increases the reliability of data, and quotes used in the thesis will be verbatim expressions from the informant. However, some information may be lost during interview, such as gesture or body language (Dunn, 2010). Also, as I experienced during an interview, the location of the interview greatly affects the amount of background noise, which detrimentally makes transcribing harder and decreases the reliability of the data. Furthermore, the mere presence of the tape-recorder could also be a psychological barrier, which potentially affects the responses to be more guarded and formal (Cloke et al., 2004). In most interviews the tape recorder had minimal affect, and the informant quickly forgot it was there. When an informant did not consent to recording the interview, I asked for permission to take notes by hand. Usually this was not a problem. However, note taking had its clear disadvantages.

Much information was lost in furiously paced keyword-based note taking, and only the gist of the interview was retained in the notes. Therefore, after such an interview I wrote down thoughts and feelings after the interview while the impressions from the interview were fresh.

Doing fieldwork in Guatemala presented several challenges related to cultural contextuality. It entailed using the right words, recognizing local jargon, as well as familiarizing myself with frequently used acronyms of institutions or corporations. It also entails adapting to the language of particular professions or groups of people (Dunn, 2010). Being of Mexican heritage gave me several advantages to doing fieldwork in Guatemala. Firstly, it enabled me better to understand Latin American culture, its many norms, colloquialisms, humour and behaviour. I believe this made my presence as a 'foreign researcher' less ominous for several informants, making them open up more. Secondly, speaking Spanish fluently enabled the informal conversations and interviews to flow with greater ease, to pose follow-up questions without problems. However, despite my oral fluency in Spanish, I experienced interviewing 'professionals' as somewhat challenging in that my Spanish (my vocabulary and terminology) was 'simple and everyday' Spanish. This may have affected the flow of the conversation to my dissatisfaction, but not in such a degree that it influenced the quality of information gained from the interview.

Doing fieldwork in Guatemala required, to the best of my abilities, to be aware, reflect over and acknowledge my *positionality* in relation to the research situation. Positionality is understood as the "researchers social, locational and ideological placement relative to the research project or to other participants in it" (Hay, 2010, p. 383). In my case, my positionality is heavily influenced by my Norwegian (read: 'affluent' and liberal democratic) middle-class upbringing, my gender as a male, my young age relative to the informants, as well as formative experiences. As Cloke et al. (2004) emphasizes, my positionality plays a significant contextualizing role in the co-construction and interpretation of interview data. Figuratively explained, my positionality metamorphosed into 'glasses' through which I understood and interpreted the social world.

The role of the researchers position as an *insider* or *outsider* is interwoven with the power relations which also influences the researchers positionality. Fieldwork in a foreign country inherently entails asymmetrical relationships, where the student researcher is placed in inferior positions relative to those who know and belong (Sæther, 2006). For instance, my position as a student researcher relative to social movement leaders or professionals in

Spanish-speaking Guatemala felt deeply asymmetrical. *They* had the experience and the required knowledge, while *I* felt insecure and fearful of not being taken seriously. My outsider position and the asymmetrical power relations particularly influenced one interview. While waiting for the informant to arrive in a meeting room at the informant's place of work, my informant suddenly marched through the door with two other people to my bewilderment. I was very much surprised, as I had scheduled to interview one individual. They all wore formal outfits and overtly displayed professionalism and experience. I had clearly communicated my position as a student researcher, and what I wanted to talk about when scheduling the interview over e-mail, so I experienced the situation as exceedingly excessive, a clear display of power to accentuate and exhibit the asymmetrical power relationships between me and them. It worked excellently to their advantage. Being in the presence of such powerful people threw me off guard and made me very nervous. During the whole interview I felt inferior and insecure, and this affected my ability to question their responses. I accepted their responses, nodded in affirmation and failed to come with follow-up questions or to question their representation of reality. My *outsider* position during that interview was riddled with complex power relations relative to the informant who *knows* and *belongs*. Only through much subsequent reflection was I able to (to a certain degree) untangle and interpret the complex meanings and representations that took place during that interview. Indeed, my position as an outsider has influenced the entirety of my fieldwork. Being an *outsider* in Guatemala, especially conducting fieldwork as a 'wealthy' white European male educated in a liberal Western European university, in indigenous territories involved complex power relations between the informants and me. Guatemala is a society structured by complex (post)-colonial patterns, and still healing from a brutal civil war.

My Mexican descent certainly reduced my position of a linguistic and cultural outsider, but I still felt as an outsider, physically and culturally, despite my heritage. However, there are some advantages to studying a different culture. It may be easier to identify aspects of a foreign culture, such as patterns or prevailing ideas as a foreigner, by having a sort of cultural distance to the research topic. Additionally, I experienced that by being an outsider the majority of the informants made a greater effort in providing rich explanations of events and circumstances, and it made it easier for me to ask for contextual information.



### **2.1.2 Observation**

One of the most longstanding traditions of practicing human geography is personally being present in a given place and therefore being able to observe directly through the researchers eyes (Cloke et al., 2004). Observation is defined as “accurate watching and noting of phenomena as they occur” (Kearns, 2010, p. 242) and has served two main purposes to fieldwork in Guatemala. First, it gave *complementary* evidence, meaning additional descriptive information to complement the more formalized interview. The second is to *contextualize* understanding, with the aim of constructing in-depth interpretation of a particular time and place through direct experience by immersing oneself in the socio-temporal context (Kearns, 2010). Observation runs on a continuum from ‘complete participant’ to ‘complete observer’, representing points on a dimension from ‘external’ to ‘internal’ (Hammersley & Atkinson, 2007). My data collection process saw my role as an observer vary on the aforementioned continuum according to the situation. At times my research role was participatory in nature, such as when I was invited to participate in a workshop and a conference. Other times my research role was significantly more non-participant and less obtrusive, such as sitting on a park bench or walking around town making observations. When collecting data from observation, the researcher needs to reflect on how the presence as an observer may affect the surrounding environment. Myself being a white male might affect how women act and talk around me, or how an impoverished farmer gazes at me with distrust. Guatemala is a country with a difficult post-colonial legacy, and simply being present in an indigenous locality has to a certain extent affected the situation I was observing.

Data collection from observation gave me rich complementary and contextual information, essential to understand the complex social conflict in Guatemala. It enabled me to get a feeling or sense of the tense situation in the anti-mining communities. During my stay I observed the poverty and the ethnic and racial compositions, as well as the contentious relationships between different groups of people. I observed political graffiti, talked and listened to people outside the formalized interview, observed how people acted and talked and how they dressed. Observation gave the possibility to modify and add questions to the interview guide, ask better follow-up questions, and give my understanding of the social conflict complementary and contextual information which has helped me make sense of a complex situation.

### **2.1.3 Recruiting informants**

Choosing whom to interview entails targeting people who are likely to have the desired knowledge, experience or positioning, and who may be willing to divulge that information (Cloke et al., 2004).

The selection of informants started in the weeks prior to departure by carrying out exploratory and background work. After gaining some insight of central actors in the conflict, I attempted to establish contact with several possible informants and organizations. This prior *purposive sampling*, however, proved unfruitful as no one answered my inquires over e-mail. An individual, more familiar with Latin American culture, told me that directly calling possible informants and/or organizations would prove more successful. Once in Guatemala purposive sampling proved fruitful, and I established contact with a several informants of Guatemala City-based NGOs. I quickly learned that the art of establishing successful contact in Latin America is much aided by accessing networks and knowing the right people. Therefore, *'snowball' sampling* proved very useful for gaining momentum in the initial stages of recruiting informants. Snowballing is when initial informants are asked to provide contact with friends or acquaintances within a particular social or identity group, thus permitting a chain of interviewees to emerge (Cloke et al., 2004). Nonetheless, snowballing in Guatemala demonstrated a limitation in providing variety and diversity of informants. I quickly learned that relying too much on too few 'snowballs' could detrimentally affect the reflexive quality of data. I therefore relied on several snowball-informants to find informants from different groups. Furthermore, once in the field, taking advantage of *opportunistic sampling* can provide unexpected informants, as I learned when I by pure chance came in contact with an informant.

Prior to traveling to San Marcos, which is geographically closer to the mine, I established contact with the San Marcos-based organization COPAE. They aided me with information regarding lodging and transportation, and served as my entry point to fieldwork in San Marcos. The people working within COPAE served as 'gatekeepers' to possible informants based in and working in the department of San Marcos. A 'gatekeeper' is a person with control over key sources and avenues of opportunity (Akinson 1981b in Hammersley & Atkinson 2007). Informants from COPAE were very helpful in aiding contact with other actors in the department of San Marcos. Gatekeepers played a much bigger role in San Marcos that in the Guatemala City, perhaps due to San Marcos being a much smaller

community, and access to informants is largely based on localized knowledge and ties. Also, doing fieldwork alone (individualized) in the indigenous communities was not recommended considering the tense situation, and a foreign person approaching informants might have produced unwanted situations. The backing and ‘blessing’ of such a respected and formal organization such as COPAE, was essential to doing fieldwork in San Marcos. However, gatekeepers might try to control and structure the access of the researcher, pointing towards ‘helpful’ and ‘safe’ interviewees (Cloke et al., 2004). It is therefore crucial for the researcher to fully acknowledge the context in which the knowledge is produced.

Building trustful relationships with informants, or within an organization, was important to gaining access to information and ensuring quality in the data. I made a great effort to achieve trustful relationships with informants, as well as individuals with access to informants, by being forthcoming, inquisitive and curious. The first days in San Marcos were in essence spent informally chatting with the members of COPAE, observing and familiarizing myself with the social conflict and the organization, meeting them many times over several days and having lunch or a beer with them, talking about the research topic, as well as other more ordinary topics of conversation. Indeed, Hammersley & Atkinson (2007) point out the importance of relaxed social relation with the informants; “the value of pure sociability should not be underestimated as means of building trust” (Hammersley & Atkinson, 2007, p. 70). This ‘warming up’ enabled me to build trustful relationships that have affected the reliability of my data. On a curious, yet serious note, a week into my stay in San Marcos I was told that they (the members of COPAE) had been observing me, and essentially testing me, to find out if I was trustworthy and credible. This trust gave me deeper access to COPAE and access to informants in the San Marcos area, including being invited to a workshop and a conference. Trustful relationships enabled me to gain much deeper insight into the research topic.

Gaining access to the desired variety of informants turned into a challenge. My topic and research questions facilitated access to informants sceptical of extractive industries. The vast majority of the informants were cooperative and supportive in the interviews, as well as in finding new informants. However, the same topic and research question made gaining access to ‘the other side’ very challenging. My repeated inquires to proponents of the extractive industries were not answered by, and only thanks to a gatekeeper was I able to interview an informant working in the department in charge of mining.

As Sæther (2006) insightfully and reflexively points out from her experience doing fieldwork, the entirety of the fieldwork process constitutes a long and arduous critical learning process. As with Sæther's case, most of my learning took place during fieldwork, above all during interviews where the learning process was at its steepest. For example, I quickly learned, and subsequently adjusted my topic and research questions to what the informants thought was important and essential to understanding the mining conflict. I gradually came to the realization that preconceived notions had shaped my interview guide during the early stages of fieldwork, and many questions were formulated as to obtain affirmation to my (often wrong) preconceived notions. Many questions were essentially leading. The early phase of my fieldwork was also characterized by a desire to tightly plan and control the process, assuming it would allow me to regulate the unfolding of events to my liking. Again, I quickly learned to be flexible and 'go with the flow', letting unexpected events and openings happen. Flexibility was also important during the interview, where again, deviating from the interview guide felt like losing control of the interview. But in many cases letting the conversation follow its own path led to important and unexpected insights, in particular to what the informant thought was important. Much learning also took place when not interviewing or collecting data. As mentioned earlier, observation proved very useful when in San Marcos and in the communities in resistance. Learning also took place when I was not actively under research, such as reading the newspaper over coffee in the morning, watching the news or talking to people. However, it is easy being wise in hindsight back in the warm embrace of the University of Oslo. Reflecting on the fieldwork, I realize that many opportunities were lost by my fear of taking chances, a lack of being sufficiently open and critical, and lacking the guts to actively pursue information. And to think of all the days where nothing happened. But, as Sæther (2006) explained, even empty days shaped the research process by constituting often-needed pauses in-between days were things happened. They were part of the process.

## **2.2 Secondary sources**

Secondary sources provide humans geographers with rich pre-constructed data, serving several purposes; they open social worlds that are otherwise inaccessible and relatively closed, and they enable the researcher to conduct historical and longitudinal research, as well as to analyse cross-cultural process. In addition to providing concrete data and facts, they also provide ideas and inspiration. More practical reasons also factor in, such as ease of access

and monetary cheapness (Cloke et al., 2004). As in talking with people, it is important to remember and acknowledge the socially and contextually constructed nature of secondary sources.

I have used books, academic articles, newspapers, reports and documents to complement and contextualize my interviews. Some material was found beforehand in Norway, but a majority of situated knowledge was first attained and accessible in Guatemala through book stores, institutions library, the library at the Norwegian embassy in Guatemala, and more importantly through my social relations with my informants and other people in Guatemala. This highlights the importance of conducting fieldwork. I have been critical of using official state documents for several reasons. First, they are statistical in nature, lacking the ‘thick descriptions’ my qualitative research questions asks for. Furthermore, little research on social issues in mining has been undertaken by the state, choosing to focus in the (positive) economy of extraction. Second, I believe data constructed by the state is heavily influenced by ideology.

In addition to the aforementioned reasons, secondary sources served to improve my interpretation and to ensure rigour in my research through *triangulation*. Triangulation refers to the process of more than one approach in research to enhance confidence in the findings. It involves using multiple sources, methods, investigators and theories to confirm or corroborate results (Bradshaw & Stratford, 2010). This *data triangulation* has entailed gathering data through several strategies, and to gather from different social situations and from a variety of people. Data from secondary sources has been used to understand if (and how) data converge (or diverge) from data derived from the formal in-depth interviews. However, different converging meanings in data collected from different methods may be related to how data is collected and constructed in the respective methods. The use of two or more sources has nevertheless aided my understanding, as well as the validation and interpretation, of my data through cross-verification.

## **2.3 Ethics**

Doing research in a country such as Guatemala on such a sensitive topic highlighted the importance of ethics. It was fundamental to establish a protective environment for informants, so that they may feel secure talking to me, as well as clearly communicating my intentions for the research and the use of the data. Prior to commencing each interview, I

informed the informant about *informed consent*, describing my intentions and how I will use the data. I explained that all the data would be treated confidentially, and the consequences their participation entailed. I emphasised that they had the right to cancel the interview at any given time.

The majority of informants gave consent to being referenced by name, and that has been done in this thesis. Furthermore, to provide contextual information to their statements I chose to include their organizational affiliation in the reference. Three informants chose to be anonymous, and when referencing them I have removed direct identifiable information, such as name, address and other linkable information. Indirect identifiers, such as position in society or geographical information, have been retained in order to provide important contextual background information to their statements.

Despite my best efforts to conduct ethical research, I still experienced breaching one ethical guideline in human geography research; *exploitation*, “the ‘using’ of respondents to gain information while giving little or nothing in return” (Cloke et al., 2004, p. 165). I was asked at the end of an interview how the informant’s participation was of use to him/her. The informant elaborated, saying he/she felt I, as a foreign researcher, came and got the information I wanted and left just as soon. He/she explained that many people were dissatisfied with ‘foreign intervention’ in the form of foreign journalists and researchers, while experiencing no substantial change to their daily lives. The informant’s frankness left me feeling dumbfounded and exploitative, as I confoundedly tried to elaborate my intentions and role as a *student* researcher with limited possibilities of inducing change to complex social conflict. In any case, I reflected on the informants’ opinions, and explained in detail in subsequent interviews my role and intentions as a student researcher.

## **2.4 Data analysis**

The process of data analysis is integrated throughout the whole research process, not confined to one specific method or part (Hammersley & Atkinson, 2007). I emphasize that my creation of knowledge and my interpretation data has not been restricted to *one part*, i.e. the coding process, but inherent before conducting fieldwork, during fieldwork, and after doing fieldwork. There is no one-way or correct way of doing analysis, it must be contextualized to the research, and must therefore be justified and explained in order to

understand how knowledge was constructed throughout the process. This entails explaining how data was collected, how data was analysed and how the researcher interprets the results.

My approach is loosely based on the dialectical relationship between ideas and data, characteristic of *grounded theory*. According to Hammersley & Atkins (2007), theory is developed out of data analysis, and subsequent data collection is guided out of emergent theory. Such a reflexive approach to making sense of data through ideas, and using data to change ideas has framed my understanding of my research questions. The almost exploratory character of fieldwork and data analysis has permitted ideas and data to communicate between them, to interplay with each other.

I experience my analysis to have a characteristic ‘funnel’ structure (Hammersley & Atkinson, 2007). Over time, my understanding progressively focused and converged, transforming and clarifying my research questions. It was not until well into the analysis I understood what my research was about, turning out quite differently than expected from at the onset of fieldwork. Again, the data analysis framed by a reflexive relationship between data collection and data analysis gave me a deeper understanding of the social conflict. Any rigid distinction between theory, analysis, data collection and data analysis was dismissed to ensure flexibility in the analysis, and to acknowledge the complex intersubjectivity of the social conflict.

## **3 BACKGROUND**

The full-scale entry of China and India in the modern market economy has led to harder competition for industrial inputs, such as commodities and precious metals. Many countries in Latin America have consequently witnessed a natural resource based economic boom, and many countries are now basing their economics on the exploitation of natural resources, often at odd with indigenous populations, a traditionally excluded group. Yet in countries such as Bolivia and Ecuador, indigenous peoples and their organization have managed to actively participate in the political arena, and benefit from legitimacy and representation among the local population. Indigenous groups have in particular managed to achieve political objectives by joining forces with other social actors, such as trade unions and grass-roots organizations (García-Godos & Wiig, 2006).

Guatemala has not reached such levels of indigenous inclusion into society. This is why the mining conflict in the Western Highlands takes place in a unique and complex context with special conditions that influence and shape the nature of mining in the Western Highlands. Mining in Guatemala takes place in a violent historical context and in a contemporary disadvantageous situation for the indigenous peoples. Decades of neoliberal reforms have altered the power dynamics between the interests of national and transnational corporations and the collective interests of indigenous communities. Any understanding the social conflict in the Western Highlands must therefore be analysed, not as separate, but as connected to Guatemala's violent history and the contemporary politico-economic situation of the Maya peoples, for the reasons that they constitute underlying structures that compose society.

### **3.1 Polarization and socio-economic inequality**

Guatemala is one of two countries in Latin America where indigenous peoples constitute the majority of the overall population. While it is difficult to quantify the proportion of the indigenous population of any country, it is estimated that the indigenous population of Guatemala comprise roughly 55% of the total population (Holden & Jacobsen, 2008). On the other hand, Fernando García (COPAE, interview) and Dr. Yuri Melini (CALAS, interview) assert Guatemala's indigenous population at approximately 70% of the total



population. This discrepancy is most likely because ethnicity is a socially self-defined characteristic, and one can therefore not provide a universally accepted quantification of an indigenous population in Guatemala (Fulmer, Godoy, & Neff, 2008). Collectively the indigenous are referred to as 'Mayans', and there are approximately 21 different ethno-linguistic groups, with *Mam* being the most prominent (Holden & Jacobson, 2008). However, it's not possible to speak of one whole Mayan nation, and even today indigenous people prefer to identify themselves according to their particular Mayan community, such as *Mam*, *Quiché* or *Cachiquel*<sup>3</sup> (Urkidi, 2011). People of indigenous and mixed ancestry have historically, and still today, been confronted with institutionalized racism, mostly due to Guatemala's demographic situation and highly unequal distribution of wealth which have contributed to the long-standing fear of an Indian uprising, according to Colop (1996, in Fischer & McKenna Brown, 1996). "The word 'Maya' has "become synonymous with inferiority, uselessness, ignorance, laziness, being dirty, and a drunkard" (Dictaan-Bang-oa & Medrana 2004 in Holden & Jacobsen, 2008, p.328). This racism, or fear, has resulted in continuous attempts by the Guatemalan state to culturally integrate Maya Indians into *Ladino* society as an underclass in an ethnically homogenous modern nation-state, rather than distinct ethnic groups with their own politico-cultural agenda (Fischer & McKenna Brown, 1996). (*Ladino* refers to socio-ethnic groups of mixed heritage of European and indigenous background, who typically prefer to express themselves in Spanish and identify themselves as Western.<sup>4</sup>)

One prominent challenge facing indigenous communities is the widespread and unevenly distributed high rates of poverty. This disproportionately affects indigenous people and approximately 80% of the rural population live in poverty (less than US\$2 a day), and approximately 18% of the rural population in extreme poverty (less than US\$1 a day) (Holden & Jacobson, 2008). As the majority of Mayans are concentrated in rural departments living off smallholder family agriculture, the poverty disproportionately affects them compared to the *Ladino* population.<sup>5</sup> Government figures indicate that 80% of people with indigenous descent live in poverty, compared with 40% of the *Ladino* population. According to Eduardo Sacayón<sup>6</sup>, director of the Interethnic Studies Institute at Guatemala's University of San Carlos, the situation of Guatemala's indigenous communities continues to deteriorate.

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<sup>3</sup> These are three of the 21 socio-linguistic Mayan groups in Guatemala

<sup>4</sup> [http://buscon.rae.es/drae/?type=3&val=ladino&val\\_aux=&origen=REDRAE](http://buscon.rae.es/drae/?type=3&val=ladino&val_aux=&origen=REDRAE) Accessed 23.04.2013

<sup>5</sup> <http://www.ruralpovertyportal.org/country/home/tags/guatemala> Accessed 08.02.2013

<sup>6</sup> <http://www.unhcr.org/refworld/country,,MRGL,,GTM,,4e16d37246,0.html> Accessed 08.02.2013

Poverty has increased, the quality of education remains poor and health provision services still do not take into account intercultural perspectives that disproportionately affect indigenous women on areas of reproductive and maternal health. Poverty among indigenous communities is further exacerbated by Guatemala's complex topography. Mountainous terrain and lack of roads have kept communities excluded from the rest of the country, and centuries of isolation and neglect have resulted in chronic poverty.<sup>7</sup>

Guatemala has the second highest income inequality rate in Latin America, with a GINI coefficient of 55.1 in 2000.<sup>8</sup> The income inequality is again connected to ethnicity between the Maya population and the Ladinos, where Ladinos earn more than twice the monthly income of the indigenous counterpart. A major cause behind this inequality is discriminatory land distribution; three per cent of landlords own 70% of land that dominate cultivation of the fertile coastal regions<sup>9</sup>. Such conditions have established an environment where wealth has accumulated and consolidated in the hands of a small but powerful Ladino political and economic elite. The low-skilled, labour intensive character of the economy has in all likelihood contributed to perpetuate high levels of exclusion among different economic and ethnic groups in the country. Economic growth and diversification is therefore not translated into access for the majority (Bruni, Fuentes, & Rosada, 2009). Inequality affects all aspects of Guatemalan life, not just income. It is discernible in political representation, income distribution and social indicators, and it is a structural problem disproportionately affecting indigenous populations.

## **3.2 The neoliberal state of Guatemala**

Guatemala has out-liberalized the neo-liberals (Seligson 2005). Guatemala has been particularly effective at embracing the Washington Consensus, and has after decades of neoliberal reforms Latin Americas' smallest government in terms of government income of GDP. Only six other countries in the world have governments whose income comprises a smaller portion of the national economy. Seligson (2005) explains that

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<sup>7</sup> <http://www.ruralpovertyportal.org/country/home/tags/guatemala> Accessed 03.03.2012

<sup>8</sup> [http://www.wider.unu.edu/research/Database/en\\_GB/wiid/](http://www.wider.unu.edu/research/Database/en_GB/wiid/) Accessed 08.02.2013

<sup>9</sup> <http://www.ruralpovertyportal.org/country/home/tags/guatemala> Accessed 03.03.2012

“Guatemala’s low level of government revenue, then, is not merely a product of economic underdevelopment but is a function of policy choices that have constrained the size of government below a level that its economy could afford” (Seligson, 2005, p. 215).

The implementation of neoliberal reforms have the explicit aim of shrinking the size of government, so that the ‘invisible hand’ of competition will be less hampered by regulatory burdens (Seligson, 2005). The reforms were implemented under the guise of aiding the national economy and generating development, according to Yagenova, Donis & Castillo (2012). The promulgation of mining takes therefore place in a context of structural adjustment programs and the (forceful) opening of markets with the aid (pressure/coercion) from IFI (International Finance Institutions). New legislation and economic reforms guarantee access to territories and natural resources, but also grant tax exemptions and generous benefits that guarantee profits for TNCs, or transnational corporations. The state has been won over by market forces, constraining itself in developing public services to better economic conditions (Yagenova, Donis & Castillo, 2012). The subordination of the state to the demands of capital points to the fact that the Guatemalan state is in the service of capital (García, 2010).

Neoliberal restructuring and the proliferation of free trade agreements have played a central role in creating new spaces of accumulation. Free trade agreements are strategies for gaining access to the economics of the South by codifying neoliberalism and investment rights of capital from developing nations (Gordon & Webber, 2007). In Guatemala, the signing of the Dominican Republic–Central America Free Trade Agreement (CAFTA-DR) in 2004 represented such a strategy, signalling a new phase of capitalist accumulation by protecting investor rights. Mining companies can actually sue the government for non-compliance to the agreement (Urkidi, 2011). It enhanced and continued a developmental model grounded on monoculture and export of agricultural products that sharpens and accelerates the historical dynamics of capitalism in Guatemala. CAFTA-DR continues the tradition of reducing the functions of the state and in promoting increasing dependence on technology and imported food products (García, 2010).

Large-scale foreign direct investments also play an important role in the neoliberal restructuring, according to McNally (2002, in Gordon & Webber, 2007). Foreign direct investment involves the long-term investment by corporations in foreign countries, and increases FDI’s influence over their economics (Gordon & Webber, 2007). The policies of

economic liberalization during the late 80s and 90s changed prevailing patterns of economic activity by reducing the barriers to movement of capital and goods. Such national policies attempt to reposition their country as a more attractive target for mining investment activity by improving their risk/reward ratio relative to other countries (Bridge, 2004). Guatemalan mining laws exemplify the codification of the global neoliberal restructuring which the mining industry has benefited generously from. The encroachment of capitalist social relations in indigenous territories amount to a dispossession of communal land and the commodification of natural resources constituting a prominent example of accumulation by dispossession.

### ***3.2.1 Guatemalan mining laws***

With the signing of the peace accords in 1996 marking the end to the civil war, the Guatemalan government wanted to attract FDI in all the sectors of the economy to rebuild a shattered economy. Mining was to serve as an engine of economic growth and development in the name of “Public Need and Utility.” as it is stated in the Mining Law of 1997. Article 7 of the mining law explicitly asserts this utilitarian purpose; “It is stated that in usefulness and public necessity, the promotion and development of mining operations in the country, and its technical and rational exploitation”<sup>10</sup>. Its explicit purpose was to attract FDI, and was therefore from its inception purposefully weak on major aspects summarized along four principal themes; the study and diagnostics of environmental impact, community participation (including community consultations), the rights of the indigenous peoples and on royalties. To attract the interest of foreign capital, the new law sharply reduced state income from mining activity. The income tax rate was reduced from 53% to 31%, and the royalty reduced from 6% to 1%, the lowest in the country’s history. Moreover, only 0,5% of the royalties collected are earmarked to the communities hosting the mine, depriving impoverished communities of needed resources. And there are no guaranties that the revenue from the royalties are spent in environmental protection and mitigation, and/or for community development (Yagenova, Donis, & Castillo, 2012). Furthermore, the law simplified mine site access by the project proponent, abolishing all limits to foreign ownership of mines, and granted all mining operations duty-free imports (USGS 1998, in Holden & Jacobsen, 2008). Yagenova, Donis & Castillo (2012) list a lack of human and

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<sup>10</sup> [http://www.mem.gob.gt/wp-content/uploads/2012/05/2\\_Mining\\_Law\\_and\\_its\\_Regulation.pdf](http://www.mem.gob.gt/wp-content/uploads/2012/05/2_Mining_Law_and_its_Regulation.pdf) Accessed 03.08.2013

financial resources, lack of precise laws and regulations, weakness in administration of justice and a series of overlaps and voids between departments in charge of mining that generate inconsistencies in determining responsibility to control, evaluate and monitor mineral extraction. This type of regulatory dispersion and disorder has given transnational mining companies broad margins to accumulate capital in Guatemala (Yagenova, Donis & Castillo, 2012). The effect of Guatemala's purposefully weak mining laws and its lacking regulation have created an environment of contention and social conflict, pitting local communities against the interests of transnational corporations in newly opened spaces of accumulation.

### 3.3 The Marlin mine

The Marlin mine is situated on the mountainous Western Highlands in the department of San Marcos 44 km from the Mexican border. Eighty-seven per cent of Marlins operations take place in the municipality of San Miguel Ixtahuacán, and 13% in the municipality of Sipacapa.

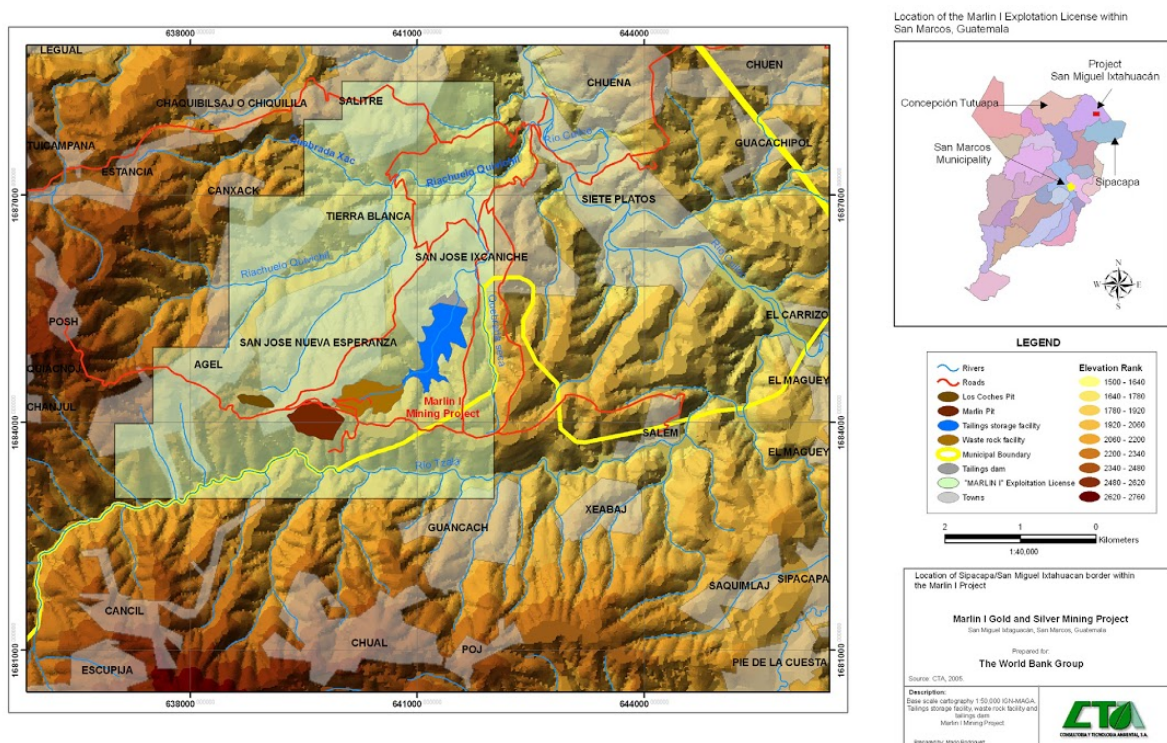


Figure 2 Map of the Marlin license. The yellow line marks the municipality border between San Miguel Ixtahuacán and Sipacapa. Source: <http://resistenciadlp.webcindario.com>

The Canadian company Goldcorp, headquartered in Vancouver, owns the Marlin mine and operates it through its Guatemalan subsidiary Montana Exploradora de Guatemala

(Yagenova, Donis & Castillo, 2012). Marlin was granted an exploration license from MEM in 1999 for the extraction of gold, silver, zinc, lead, iron, mercury and copper in an area of 20km<sup>2</sup> for 25 years. Montana started extractive activities in 2005, and has an expected lifetime production of 2.5 million ounces of gold and 36 million ounces of silver (Zarsky & Stanley, 2011). Goldcorp received a \$45 million loan from the International Finance Corporation, the private sector arm of the World Bank, to finance construction (Witte, 2005 in Holden & Jacobsen, 2008). The Marlin mine has become Goldcorp's mine with the lowest production cost due to the right mix of geological and politico-economic conditions. In 2009 the production cost was \$192 per ounce, compared to the average transnational production cost of \$295 per ounce (Dougherty, 2011).

The Norwegian Government Pension Fund – Global has an active investment in Goldcorp of 1,081,465,414 kroner as of 2013, constituting 0.65% voting and ownership power.<sup>11</sup> Despite the increasing levels of social and environmental controversy, the Government Pension Fund-Global increased its investment from 815 million kroner in 2009, to over 1 billion in 2013.<sup>12</sup>

The Marlin mine is a gold and silver mine using both open-pit and underground mining methods in a 6 km<sup>2</sup> area. The mine also houses a waste rock facility, tailings storage facility, and mineral-processing and tailings neutralization plants. The mine utilizes a cyanide-vat leaching process to extract the gold and silver from the ground ore. After the ore is removed from the open-pit or the tunnels, it is fed through a crusher, and then subjected to a tank leaching with a cyanide solution. After leaching the ore it is 'washed', which produces two products: a clear gold and silver-bearing solution, and also a pulp without precious metals. The gold and silver is then sent to the refinery where it is melted into bars.<sup>13</sup> The cyanide-vat leaching process is however extremely water intensive, and approximately 250,000 litres of water is needed an hour, equivalent to water consumption of a single family in the area in 22 years (Holden & Jacobsen, 2008). Marlin has an estimated life span of 10-13 years, however the continued high price of gold could make continued extraction economically profitable (Fernando García, COPAE, interview).

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<sup>11</sup> <http://www.nbim.no/no/Investeringer/beholdninger/> Accessed 09.08.2013

<sup>12</sup> <http://www.aftenposten.no/nyheter/uriks/Oljefondet-tjener-fett-pa-omstridt-gullgruve-5586309.html#.Ufon2BY1evs> Accessed 09.08.2013

<sup>13</sup> <http://www.infomine.com/minesite/minesite.asp?site=marlin> Accessed 09.08.2013

### 3.4 Main actors

The Marlin mine is situated in the municipalities of Sipacapa and San Miguel Ixtahuacán. They are predominantly Maya indigenous communities each with its distinct language and culture. The majority are peasant farmers that primarily cultivate corn and beans on one or several small plots of land that are held and used individually, but that form part of a collective property of the community. Both municipalities suffer high levels of poverty, malnutrition and illiteracy; 97,5% live in poverty and 80% in absolute poverty. Remittances from migrated family members in the US constitute an important source of income for many families (van der Sandt, 2009; Yagotnova, Donis & Castillo, 2012).

Approximately 95% of the almost 30,000 inhabitants of the San Miguel Ixtahuacán identify themselves as Maya *Mam*. In Sipacapa the majority, 70%, identify as Maya *Sipakapense*, a small ethnic-linguistic enclave wedged between the territories of Maya *Mam* and *Quiche* territories. This ethno-linguistic difference between Sipacapa and San Miguel Ixtahuacán has produced interesting differences in anti-mining resistance. Sipacapa has from its status as an ethno-linguistic minority a historical rebel identity with a long tradition of defending its territory. It enabled Sipacapa to have greater community cohesion and made the initial organization of anti-mining resistance quicker and easier. This factor is an underlying explanation for the success of the infamous community consultations on mining in Sipacapa (Yagenova & Garcia, 2009; van der Sandt, 2009). The communities of San Miguel Ixtahuacán of Maya *Mam* on the other hand did not experience such effective initial anti-mining organization. The municipal government had early in the process been in negotiations with Montana, and the indigenous authorities were much less organized than in Sipacapa. The development promises propositioned by Montana enjoyed a higher profile, and was accepted with more initial trust (Urkidi, 2011).

The communities of the Western Highlands inhabit a mountainous area in the western part of Guatemala. It is the western part of the Guatemalan *Altiplano*, or highlands, a mountainous upland region of southern Guatemala between the Sierra Madre de Chiapas in the south and the Petén lowlands in the north. The altitude of the Western Highland ranges from 900 to 3400 meters about sea level, and geographically encompasses the departments of Sololá, El Quiché, Totonicapán, Quetzaltenango, San Marcos, Huehuetenango and the northern part of



Retalhuleu. It is primarily inhabited by indigenous communities, and is characterized by disadvantageous social indicators. The region has a GDP per capita that is one fifth of the national average (with the exception of the department of Quetzaltenango), and has the highest incidence of social exclusion nationwide. Low productivity smallholder agriculture dominates the regions, with maize and beans as the main staple food, and wheat and coffee as major cash crops. The agricultural livelihood base is reliant upon an increasingly degraded and declining natural resource base.<sup>14</sup>

The mining conflict in the Western Highlands has created much attention from international Civil Society Organizations. Such organizations have played an influential role in providing information and direct and indirect assistance on environmental, social justice, indigenous and labour subjects. Organizations include, among others, MiningWatch, Kirkens Nødhjelp<sup>15</sup>, Cordaid, the Halifax Initiative, Rights Actions, Peace Brigades, and the World Lutheran Federation. These global CSO's have participated in anti-mining resistance through diverse approaches ranging from economic funding of local organizations, technical expertise in water quality monitoring, and building awareness, but also by directly supporting local organizations and community initiatives (van der Sandt, 2009; Holden & Jacobsen, 2008). They have bridged and networked with other global CSOs, but more importantly with national and local community-based organizations. Educational institutes in the Global North have also increased awareness and the knowledge level by conducting research on this conflict.

National CSOs played from the onset an important role in linking and supporting local community-based CSOs. Madre Selva, an ecologist collective, has mediated between communities and government agencies (van der Sant, 2009), as well as protested the ecological aspects of the mining conflict. CALAS (*Centro de Acción Legal, Ambiental y Social*) headed by Dr. Yuri Melomo (CALAS, interview) focuses primarily on legal action at the national level. For example, in 2007 CALAS managed to overturn 7 of 8 articles of the mining law of '97 as unconstitutional. *La Plataforma Holandesa*, represented by Anabella Sibráin (Plataforma Holandesa, interview) in this thesis, is an alliance of Dutch CSOs that

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<sup>14</sup> [http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2003/05/07/000160016\\_20030507154030/Rendered/PDF/256601GT1Weste1s0Management0Project.pdf](http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2003/05/07/000160016_20030507154030/Rendered/PDF/256601GT1Weste1s0Management0Project.pdf) Accessed 14.10.13

<sup>15</sup> <http://www.kirkensnodhjelp.no/Arbeidet-vart/Hvor-vi-jobber/Latin-Amerika/Guatemala/> Accessed 04.09.13



provides support to human rights organizations advocating against the culture of impunity in Guatemala. In the Marlin conflict *La Plataforma Holandesa* has focused on environmental, in particular water rights, aspects of the mining conflict. The Guatemalan Roman Catholic Church as a national CSO has played a major role in facilitating bridges between Guatemalan and other Latin American organizations (Holden & Jacobsen, 2008). The Catholic Church has adamantly opposed mining and neoliberalism, and has championed the rights of the poor in accordance with liberation theology (Holden & Jacobsen, 2009). *Fundación Rigoberta Menchú Tum* (FRMT) is perhaps the only major national actor primarily focused on the indigenous rights aspect. While FRMT has provided assistance in indigenous rights to local communities, like CALAS, FRMT has focused its efforts primarily in the national scale.

The Western Highlands has a myriad of local and regional CSOs with different approaches to the mining conflict. Organizations working in this scale have a more prominent indigenous rights discourse and espouse concrete views on local development based on their indigenous identity. Working on a regional level, *Comisión Pastoral Paz y Ecología* (COPAE), attached to the Dioceses of San Marcos, has become an influential regional actor that specifically provides technical, legal and logistical assistance and representation to communities in the mining conflict, and to other developmental conflicts. Teresa Fuentes (COPAE, interview) is a judicial representative of COPAE, Roberto Marani (COPAE, interview) leads the political platform and Fernando García (COPAE, interview) works with communication and media. COPAE has among other things built its own water quality lab to provide alternative water quality reports to Montana's, conducted community building workshops, written reports in the mines community impacts, as well as assisted on community consultations. *El Consejo del Pueblo Maya de Occidente* (CPO), or Peoples Council of the West, has rapidly grown to function as a regional platform for coordination resistance against mining and other megaprojects. It integrates dozens of organizations from six departments (van der Sandt 2009), and is closely attached to COPAE, from which it receives technical aid and assistance.

On the local scale you find more organizations focused on indigenous rights issues and community development, with much resistance being led by and organized by community authorities councils (*alcaldía indígena*) and village development councils (COCODES) as opposed to organizations in the strict sense. Despite this, organizations such as ADMISMI, the local development association in San Miguel Ixtahuacán, has played an influential role in coordinating early resistance against the Marlin Mine in San Miguel Ixtahuacán. ACAS, (*Asociación de Caficultores y Agricultores de Sipacapa*) was a local organization established

to promote small-scale agriculture in the municipality of Sipacapa. Organization leader Fausto Valiente (ACAS, interview) explained that ACAS was established to provide a development alternative to mining in the municipality of Sipacapa. Anonymous 1 (interview) is affiliated with ACAS, and also serves as an indigenous leadership figure.

Educational institutions have played an important role in researching and disseminating information in the mining conflict. Guatemalan research institutions include the San Carlos University in Guatemala, national institutions AVACSO and FLACSO and regional research institution CEDFOG (van der Sandt, 2009). Research conducted by foreign academics and researchers has also played an influential role in disseminating academic information in English to a much wider audience (see reference list for a selection). The proponents of mining, quantitatively few but considerably powerful, have been limited to a small number of transnational corporations and their affiliated networks, some government institutions, high-level politicians and organizations with economic interests in mining. For example, Goldcorp was granted a \$45 million loan by the International Finance Corporation, the private sector branch of the World Bank to construct the mine (Holden & Jacobsen, 2008). The Ministry of Energy and Mines (MEM) is the government institution in charge of promoting mineral extraction, in this thesis represented by Ekaterina Parilla (MEM, interview), vice-minister of Sustainable Development in MEM. The Human Rights Ombudsman's Office (*Procuraduría de los Derechos Humanos*) is on the other hand the only governmental agency with a critical stance towards mining (van der Sandt, 2009). Another important institution with substantial influence on national policy is the CACIF (*Comité Coordinador de Asociaciones Agrícolas, Comerciales, Industriales y Financieras*), the national Chamber of Commerce and Industry, unifying Guatemala's deeply conservative landowning, commercial and finance oligarchy.

### **3.5 ILO169 and the community consultation**

Convention number 169 of the International Labour Organization on Indigenous and Tribal Peoples, commonly referred to as ILO169, was adopted by ILO in 1986, and ratified by Guatemala in 1996 (Castagnino, 2006). The core of ILO169 is recognition and respect for indigenous groups' unique way of life, and a commitment to protecting the right of self-determination. It grew out of a consensus that its predecessor, the 1957 Indigenous and Tribal Peoples Conventions, was outdated due to its cultural assimilationist approach (Fulmer,

2010). It is meant to rectify power imbalances between local indigenous communities, and TNCs and governments controlling a development agenda favouring open markets (van de Sandt, 2009). Although ILO169 was ratified in 1996, it was never implemented into national Guatemalan law. This causes uncertainty as to whether ILO169 is superior, equal or below the level of the national constitution, and to which national body should be the authority of the implementation of ILO169. The lack of ratification into national law means that the consultative process exists in a national legal vacuum where community participation is delegated to the companies. In this scenario the company in question must choose whom to consult and how to consult (Fulmer, Godoy & Neff, 2008).

The right to community consultations figures centrally in ILO169, however the concept of consultation remains somewhat contested, and no universal definition exists. It can be understood as “a process that provides space for Indigenous peoples to communicate meaningful feedback about natural resources management and have this feedback acted upon by governments and mining companies” (Whiteman & Mamen, 2002). According to ILO169, consultations are required “*whenever consideration is being given to legislative or administrative measures that may affect [indigenous peoples] directly*” meaning they should take place before adopting and implementing such measures. The convention emphasizes that consultations should take place through representative indigenous institutions, which entails that consultations should be contextually grounded, through the communities’ traditional methods of decision-making. ILO169 highlights three qualities in the community consultations; prior character, informative character and carried out in ‘good faith’, constituting the famous phrase *la consulta previa, libre e informada y de buena fe*. Firstly, the consultations should take place in advance. This entails conducting a consultation as early as during the formulation phase of a bill or during the conception stage of a project. Secondly, the consultations should encompass genuine dialogue between the parties involved, involving communication and understanding as well as mutual respect. And thirdly, consultations should be in good faith to generate trust between the parties (van de Sandt, 2009).

Article 6 of ILO169 states that “in applying the provision of this convention, governments shall: (1)”<sup>16</sup>

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<sup>16</sup> [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C169](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169)

Accessed 10.06.13

**(a)** consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly;

**(b)** establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them; establish means for the full development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose.

(2): The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.<sup>17</sup>

The convention has been criticized for being vague and ambiguous, which negatively affects its applicability (Dr. Yuri Melini, CALAS, interview; Fulmer, Godoy & Neff, 2008; Fulmer, 2010). Fulmer, Godoy & Neff (2008) explain that the convention's text is inherently vague which can lead to deviating interpretations. It has left out instruction for how consultations should be implemented or a specific definition of what consultation entails. The vague wording in the convention allows states to implement consultations differently according to varying circumstances and their interpretation (Fulmer, Godoy & Neff, 2008). However, James Anaya, the United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people explains that such vagueness is required to ensure contextuality in implementation. The consultations, he explains, cannot be reduced to an absolute formula or definition, but depend to a large extent on the range and scope of the measure that is being proposed. The diversity of indigenous peoples makes it impossible to prescribe in advance what is or should be considered a representative institution. For this reason, the control organs of ILO emphasizes that the criteria of the convention should be interpreted in a flexible way (van de Sandt, 2009, pp. 72-73).

Consultations, like any form of participation, is inherently a political process deeply embedded in power structures. It has been embraced by local communities experiencing

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<sup>17</sup> [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C169](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169)

Accessed 10.06.13

conflict, as well as civil society, and has now much political support. The community consultations have played an important role in shaping the course of the anti-mining resistance, becoming a central component to indigenous resistance campaign.

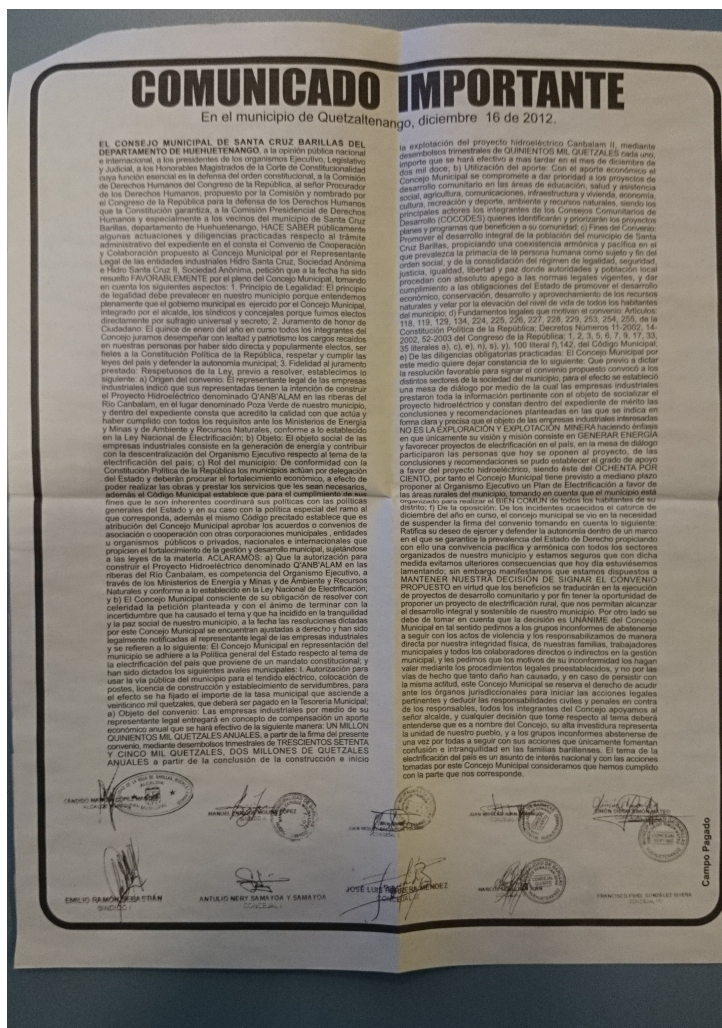


Figure 3. Example of a decree on hydroelectricity issued by the municipality of Quetzaltenango. Source: Prensa Libre, December 21, 2013

contradicts Article 72 of “*Reglamento de Evaluación, Control y Seguimiento*”, which states that communities are to be involved as early as possible in the process. Yagenova, Donis & Castillo (2012) conclude MEM’s and the government’s political declarations that acknowledge the positive effects of the consultations are in the absence of translating such political declaration into effective instruments pure rhetoric.

MEMs actual practice of consulting the people, i.e. enabling citizen participation, has been according to Yagenova, Donis & Castillo (2012), completely different and distinct from what ILO169 expresses. MEM has consulted by way of publishing one decree, exemplified by figure 4, in a daily newspaper or another medium with a large readership. People, either individually or collectively, then have up to 30 days to issue a challenge. Furthermore, the process of relaying the benefits and impacts of a project has been delegated to the mining company, and there is no participation from a public office. Also, MEM has only ‘consulted’ when issuing exploration licences, which

## 4 MINING AS DISPOSSESSION

The anti-mining resistance is a struggle for the rights of indigenous peoples to live on their ancestral land and to govern themselves. However, years of neoliberal reforms have opened up Guatemala to FDI, essentially transforming Guatemala into new spaces of accumulation. The Marlin mine in the Western Highlands represents a part of this transformation and the staggering increase of mining licenses on indigenous territories indicate a tangible threat to indigenous communities; the loss of ancestral lands, loss of natural habitats and the loss of indigenous means of productions. The dispossession of indigenous communities, and the resistance to it, is not a new phenomenon but part of the Mayas history. The Mayas have suffered through four dispossessions, with mineral extraction being the latest.

### 4.1 Four historical dispossessions

Maya indigenous history is framed by four keystone events of forced displacement, looting, dispossession and destruction of traditional political, cultural and social patterns. The four events, referred to as *holocausts* or dispossessions, are historical processes where structures of oppression were consolidated and replicated (CPO, 2012). They have had lasting impact on the societies in the Western Highlands and their culture, but they are also mirrored by resistance and opposition to dispossession, according to CPO (2012).

The first dispossession started with the Spanish invasion in 1524, led by Pedro de Alvarado in what is today known as Guatemala. In all, 2 million Maya were killed and the survivors were concentrated in *congregaciones*, *encomiendas*, and *pueblos de indios* (Grandia, 2006). It is estimated that throughout Latin America, 90 million people died by 1600, which is equivalent to one billion people in contemporary terms. Proportionally, 90% of the indigenous populations perished within the first decades following the Spanish invasion, from disease, violence and ecological devastation (Lovell, 1988 in Cuxil, 1996). The new colonial powers forcibly introduced the European feudal model based on the feudal lord as the proprietor of the land and the serfs working the land. The Spanish colonialism entailed the transfer of wealth from the New World to Europe. Between 1503 and 1660, 180,000 tons of gold and 16 millions kilos of silver arrived at the port of Seville, which undoubtedly benefitted the economic development of Europe. However, colonialism in Guatemala saw

many acts of resistance and opposition throughout its history. CPO (2012) emphasizes several important uprisings in 1701 and 1820 in the Western Highlands, uprisings that “were broad social movements that carried out actions of resistance and opposition against the established system, that went deeper than the elimination of tributes imposed by the crown. These uprising assumed the return of our indigenous way of life, of communal autonomy and control over our territories” (CPO, 2012, p. 7-8). An all-encompassing consequence of long-term colonial dispossession is that Guatemala has an enduring legacy of colonialism, of indigenous communities living with the ‘heritage of conquest’. Throughout the colonial period up to the present, foreigners have taken what they wanted without concern for indigenous humanity (Grandia, 2006).

The second dispossession started after the Guatemalan independence from Spain. There was a power battle between conservatives, who wanted to uphold the power of traditional colonial elites, and anti-clerical ‘liberals’, who aimed to undermine the power of the Church to transform Guatemala into a modern capitalist economy. In the end, the liberals won the power struggle and in 1877 three key laws were passed; (1) the export tax on coffee was lifted, (2) the national government would confiscate communal indigenous lands by calling them ‘untitled’, and (3) a law of forced labour was established. These laws created a new agricultural elite based mainly on newly arrived German and Italian colonists, and they also ushered a massive foreign ownership of Guatemala’s land and natural wealth. Furthermore, the new laws led to a massive confiscation of communal lands (Grandia, 2006). According to Lovell (1988 in Cuxil, 1996), rural Ladinos appropriated up to 70% of Maya communal lands, and one to two thousand Indians were abducted each year to perform forced labour (Grandia, 2006). The agrarian reforms, and its consequences, were met with acts of resistance. In the Q’echi’ dominated Alta Verapaz region, resistance resulted in the burning of coffee plantations, cattle being slaughtered, and the writing of petitions, and even the murder of foremen and planters. Major revolts took place and Q’eqchi’ workers learned to manipulate the system to their advantage. Despite the intensity of this dispossession, the Mayas continued to exist.

The third dispossession was civil that raged during the period of 1960-1996 between Guatemalan military and various military-led paramilitary organizations and small guerrilla movements (Lovell, 1988 in Cuxil, 1996; CPO, 2012). For the guerrillas, it was a war of liberation, an armed struggle to challenge the legitimacy of the state and the exploitations of Guatemalan peasants by wealthy landowners and export-oriented commercial elites. For the



military, it was a battle against communism, an armed and dangerous menace within (Warren, 1998). Three hundred thousand people were exiled and 200,000 were killed according to the UN-sponsored Historical Clarification Commission. Up to 95% of the crimes were carried out by the army, three out of four victims were of indigenous descent, and 400 Maya villages were directly devastated by the army in what the commission considers 'acts of genocide'<sup>18</sup> (Urkidi, 2011). The civil war had strong ethnic overtones. It was the result of centuries of unresolved ethnic tensions in Guatemalan racism that were inflamed and manipulated. The tensions stem from Guatemala's colonial (and modern) plantation economy built on the cheap manual labour of impoverished Mayas. This division of labour, the heart of Guatemala's 500-year history of plantations economics, is founded in a colonial ideology of racial inferiority. Furthermore, many Mayas felt that the government used the civil war as an excuse to destroy elements of Maya culture, such as language, clothing styles or community orientation. The rightist elite and the military, on the other hand, saw Maya desire for political representation and cultural autonomy as a political threat (Warren, 1998). The legacy of the 36-year long civil war is felt to this day, and many of the current social and judicial problems can be understood as legacies of Guatemala's bloody civil war. According to Milburn Line, Executive director of the Joan B. Kroc Institute for Peace and Justice at the University of San Diego<sup>19</sup>, the civil war is akin to the 'elephant in the room', shaping many of the injustice and human rights violations up to the present. It has left the general population deeply distrustful of public authority, and exacerbated patterns of social exclusion. Further exacerbating the distrust are historical racist attitudes of Guatemalan Ladinos, attitudes that originated from the Spanish administration of Guatemala. It is based on a deep-seeded fear of an indigenous political takeover, and a fear that been politically manipulated to maintain the government's own power base, according to Line. This fear is discursively framed around public security issues, and is used as a justification for violence. The most important legacy from the civil war is perhaps the culture of impunity that continues to this day. While much reconciliatory progress has been made through investigation of massacres, mass graves and through truth commissions, there is still a sense of a lack of justice.<sup>20</sup> However, rather than lead to a suppression of ethnicity, as happened in

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<sup>18</sup> <http://www.hrw.org/legacy/backgrounder/americas/guatemala101603.htm> Accessed 24.05.2013

<sup>19</sup> <http://harvardhrj.com/2011/12/milburn-line-interview-part-i/> Accessed 24.05.2013

<sup>20</sup> <http://ictj.org/news/guatemalas-claudia-paz-crimes-past-and-present-justice-must-be-done> Accessed 01.06.2013



El Salvador in the 30s as a result of *la matanza*, the Guatemalan civil war sparked a wave of cultural resurgence in communities (Warren, 1998), of which I argue the community consultation is an example of.

The fourth, and currently on-going dispossession is related to the geographic expansion of economic globalization and of the influx of TNCs onto indigenous territories. It is interrelated with the broader dynamics of capitalism and the relationship between the global North and the Global south. Understanding mining as part of global capitalist accumulation provides the *global* context that frames a *local* conflict. In Guatemala, the proliferation of neoliberal reforms intended to attract FDI have transformed Guatemala into newly created spaces of accumulation through a forceful and violent reorganization of people's lives. Since the signing of the peace accords, the Guatemalan congress has written and passed laws that have opened up the country to foreign investors, sold off state firms and privatized commons (Warren, 1998). It is the newest and a currently on-going example of accumulation by dispossession, as is argued below, and is an integral explanation to the anti-mining resistance in the Western Highlands.

## **4.2 Mining as accumulation by dispossession**

Capitalism is rooted in a socioeconomic system grounded on the logic of the competitive pursuit of profit on the exploitation of labour. This process is subsequently prone to over-accumulation, an expression of the contradictory character of capitalist accumulation, according to Marx (Berge, 2007). New ways of absorbing surplus capital must be found in order to avoid destructive devaluation of capital and labour power, and geographical expansion and spatial reorganization is one way (Gordon & Webber, 2007). This is how mining penetrates formerly inaccessible areas, which for centuries have provided safe havens for indigenous peoples and their cultures, (Holden, Nadeau, Jacobsen 2011), creating new spaces of accumulation.

Harvey's theory of accumulation by dispossession enables us to understand how the indigenous communities Guatemala are experiencing dispossession by transnational mining corporations that lay claim to and exploit formerly inaccessible areas through neoliberal policies. The framework of accumulation by dispossession is based Marx's concept of 'primitive accumulation'. Marx describes the transformation from feudalism to capitalism, and the process through which people were pushed off their lands to find work in factories

or in ships to plunder and pillage the new World (Gordon & Webber, 2007). It was the initial stage of separating the workers from the means of production (Berge, 2007). This process has historically happened through the commodification and privatization of land, the forceful expulsion of peasant populations, the transformation of commons into private property rights, workers right suppression or the suppression of indigenous forms of production and consumption. It can be as unobtrusive as the monetization of exchange and taxation, or as violent as the slave trade, colonialism and imperialism (Harvey, 2003).

Harvey's seminal contribution was the resurrection and reconditioning of Marx's concept of primitive accumulation within "the rubric of accumulation by dispossession for modern day social analysis" (Holden, Nadeau & Jacobsen 2011, p.142). Harvey explains that all the features of primitive accumulation have remained forcefully present within capitalist historical geography up to now (Harvey, 2003), and with the emergence of neoliberalism we are witnessing a new phase of accumulation by dispossession (Gordon & Webber, 2007). In this new era, privatization constitutes the *cutting edge* of accumulation by dispossession (Harvey 2003), which entails "the transfer of productive public assets from the state to private companies.", assets that include natural resources, such as earth, forest water and air (Roy, 2001 in Harvey, 2003, p. 161),

Mineral extraction has since the discovery of the New World figured centrally in accumulation by dispossession in Latin America. However the geographical expansion of global capitalism since the 70s has accentuated this. From 1985 to 1995 over 90 countries changed their mining laws with help from the World Bank to promote foreign direct investment (Bridge, 2004 in Holden, Nadeau & Jacobsen, 2011), and from 1990 to 2001, mining companies invested over \$90,000 million in the developing world (Hayter et al. 2003 in Holden, Nadeau & Jacobsen, 2011). Mineral extraction in the periphery provides a solution to the problem of overaccumulation. This happens when previously held state or common assets are released into the market so that overaccumulated capital could invest, upgrade or speculate in them. This release of assets created new terrains for profitable activity, and helped postpone the overaccumulation problem (Harvey, 2003).

Accumulation by dispossession has provoked political and social struggles, and much resistance. To Marx, primitive accumulation entailed a whole series of violent and episodic struggles. Resistance to accumulation by dispossession saw a volatile mix of protest movements that swept the world after the 1980s. Resistance was often met with state violence

and oppression, most frequently by state powers acting in the name of ‘order and stability’. Movements against accumulation by dispossession aim to shift the terrain of political organization away from traditional political parties and labour organizations into a “less focused political dynamic of social action across the whole spectrum of civil society.” (Harvey, 2003, p. 168) The incursion of capital in mineral extraction, especially in Latin America, has pitted predominantly indigenous communities against global capital, when their territories are ceded off by the governments to mining for exploration and exploitation. This has created new social movements to protests the damage to the environment, health, and livelihoods of local populations and to the miners themselves.. According to a forum of peoples, communities and groups affected by mining, the mineral exploitation in Latin America in 2009 had reached levels never experienced before, in particular the Amazon region where deposits of gold, bauxite, precious stones, manganese and uranium have been privatized in the name of development (Veltmeyer, 2013).

The struggles over territory and livelihoods in new neoliberalized environments has created dynamics of struggles whose outcome are uncertain, but warrant a deeper investigation.

# 5 INDIGENOUS IDENTITY AND MOBILIZATION

Indigenous identity is a central driving force in the anti-mining movement, and has framed how mining is understood, and how resistance is shaped. Theory on indigenous identity and on indigenous mobilization may thus have explanatory power in this context. This topic is however vast and complex, being a multi-faceted, multi-layered topic, involving subjects such as democracy, marginality, civil war, ethnicity, identity, politics, development and post-colonialism. This chapter will briefly account for how indigenous identity may affect indigenous collective action and the repertoire of resistance.

There are three primary ways of understanding ethnic identity according to Yashar (1998). *Primordialist* approaches to identity assume ethnic identities are deeply rooted affective ties that shape primary loyalties and affinities. *Instrumentalism* assumes that individuals have preferences, are goal oriented, act intentionally and engage in utility-maximizing behaviour. *Post-structural* explanations assume that identities are not given or ordered, but socially constructed. Context and complexity is highlighted, and identity is both constituted by social conditions and renegotiated by individuals. All three approaches encompass limits in their ability to explain social phenomena, and individually they cannot sufficiently explain organizations around indigenous identity.

## 5.1 Maya identity and marginalization

The legacy of the Spanish invasion and the subsequent European superimposed hegemony is a legacy that still rules the ethnic relations in Guatemala and the identities of the Maya peoples. The identity as Mayan peoples has there not been constructed independently of centuries of colonization and repression, but is on the other hand greatly affected by their historicity and the wider social life. The marginality and exclusion of the Maya peoples is therefore an underlying structure, shaping identities and understanding, and subsequently collective action.

A root cause to much social conflict between the Maya and the Ladino is a bipolar view of ethnicity, and the hierarchical ranking of different groups of peoples in Guatemala.

According to Smith (1990b in Fischer & McKenna Brown 1996, p. 9), “what has distinguished Indians and non-Indians over time has not been biological heritage, but a changing system of social classification, based on ideologies of race, class, language, and culture, which ideologies have also taken on different meanings over time.” Despite post-structural assumptions of ethnicity as fluid and as an ever-changing construction, pervasive racist stereotypes of a bipolar society (Maya vs. Ladino) are deeply embedded in Guatemalan social life, and these assumptions shape and affect life in Guatemala. These racist stereotypes categorize individuals as Maya or Ladino based on a few conspicuous cultural traits, such as dress or language. Mayas are, despite this bipolar stratification, not excluded from integrating into Ladino life, often seen by Maya Indians choosing to identify as Ladino in order to avoid cultural discrimination and improve their living conditions. Nonetheless, this bipolar classification of ethnicity has major impact on the distribution of political power and economic wealth. The marginalization of the Mayan peoples has enabled a Ladino politico-economic elite to govern at the expense of the rest of the population, enabled by a constructed ethnic stratification, according to Cuxil;

“[...] there are various nations because there are various ethnic identities. Consequently there cannot exist a nation-state. Within the multiple communities that comprise Guatemala society there is one that controls the state and utilizes it to guarantee its hegemony over others, stifling cultural evolution and survival. This is the Ladino community, which subjugates, through the state, the Maya ethnicities. This is done because the state functions as a colonial (and not a multinational state) and the Ladino community functions as the governing ethnicity” (Cuxil, 1984, p. 17-21 in Rodríguez Guaján, 1996, p. 84).

The Maya population has consequently remained politically and culturally colonized in the years after the peace signing in 1996. Several informants describe contemporary Guatemala as an apartheid state (Dr. Yuri Melini, CALAS, interview; Roberto Marani, COPAE, interview; Anonymous 2, interview).

“So what is happening, is what happened in South Africa; apartheid. In other words, the indigenous communities are practically separated from welfare here in Guatemala. The High Commissioner for Human Rights from the UN, Pilar, that came a year ago said that what happened in South Africa is happening here. Apartheid. If you notice, with the malnutrition, there is no access to a fraction of the structures that the rich have in Guatemala. And these people are only workers, servants or chauffeurs” (Roberto Marani, COPAE, interview).

“I feel, firstly, that Guatemala 500 years after the *conquista*, 192 years after being established as a republic, is based on exclusion and discrimination of the majority of the population. In this country 67-70% of the population is indigenous. But they have been systematically submitted to apartheid. They don't consider themselves subjects of political rights; they don't see a development model that guarantees their civilian right. Even more, many Ladino and urban people see different realities. An urban reality and a rural reality. And only the Ladinos consider themselves subjects of rights, and they are not willing to pay taxes, nor willing to partake in a just and equitable model. Therefore, the first element is that throughout Guatemala's modern and ancient history, the indigenous communities have been discriminated, excluded and invisibilized” (Dr. Yuri Melini, CALAS, interview).

The Guatemalan government has played an indifferent, even negligible, role in the preservation of Maya identity and culture. Instead of addressing the country's cultural diversity, developmental models have followed a process of assimilation (Cuxil, 1996). Assimilation is the process in which nations or communities, and the sub-nations and minorities within them intermix and become more similar (Ogden, 2000), and in Guatemala assimilation has been the gradual transformation of Maya culture (considered inferior) to Ladino culture (considered superior). Assimilation started with the Spanish colonization, and is continued today by the Ladinos and their relation with the Maya. The politico-economic elite considers Maya culture an obstacle to development, and seeks to resolve colonial ethno-national problems by radical assimilation with the aim of a unified, monocultural Guatemala. The process of *Ladinoization* has taken place through several spheres of Guatemalan life. First within the economy where it seeks to formalize and integrate localized Mayan economy into the greater national and international economy, as well to implement Western patterns of consumption. Second, cultural assimilation seeks to replace the myriad of local indigenous languages with Spanish as *the* official language. And to the extent that Maya languages are allowed at school, it is to teach and learn the contents of Ladino culture. And third, assimilation aims to replace the indigenous worldview characterized by “[...] profound respect of Mother Nature, respect towards our elders and reverence towards our dead” (Rodríguez Guiján, 1996 p. 80) with a Ladino culture, heavily influenced by global capitalism.

In spite of centuries of institutionalized discrimination and marginalization, Maya identity has displayed surprising strength and endurance in the face of such adversity. Maya organizations have after the peace signing in 1996 been able to carve out a small space to

work within Guatemala bureaucracy and legal system. The revindication of Maya activism took a two-pronged culture-based approach to Guatemala's problems; to work for the conservation and resurrection of elements of Maya culture, while promoting governmental reform with the framework of national and international law (Fischer & McKenna Brown, 1996). However, Guatemala has to this day no strong indigenous movements with a well-articulated political agenda. Indigenous organizations are still divided between pan-Maya movements and popular indigenous movements employing a leftist class discourse. This ultimately leads to problems of representation and legitimacy for the rural communities (van der Sandt, 2009), many who do not identify with either of these approaches. However, anti-mining activism has given indigenous communities a rallying point, a common struggle using indigenous identity to channel grievances.

## 5.2 Maya cosmovisión

The Mayan *cosmovisión*<sup>21</sup> (worldview) plays a major role in Mayan identity, framing grievances and strategies of collective action. This *cosmovisión* has played a fundamental role in the anti-mining resistance in the Western Highlands, and more importantly in the utilization of the community consultation

The term *cosmovisión* is associated with a way of observing and interpreting the world. Mayan *cosmovisión* is a conception of the world that permeates the spiritual life of man, and serves as a guidance framework for the actions of individuals.<sup>22</sup> It is interpreted as a series of spiritual and moral values related to Maya symbolism (Urkidi, 2011). There are seven main principles to the Mayan *cosmovisión* (Calan Tay, 2012):

- *Everything has life*: Humans are part of Mother Earth, and not its owners. Mother Earth is a living entity that feels the damage we inflict, and the bad that we cause impact each other's lives.
- *Everything is sacred*: Give the fact that everything on earth has life, then everything has energy and that energy has a purpose for existence in unity with everything in the

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<sup>21</sup> I choose to use the Spanish term *cosmovisión*, as I feel the English translation "worldview" insufficiently captures the meaning of *cosmovisión*.

<sup>22</sup> [http://wikiguate.com.gt/wiki/Cosmovisión\\_maya](http://wikiguate.com.gt/wiki/Cosmovisión_maya) Accessed 08.06.13

cosmos. These relationships create social harmony between humans and nature, because we are all part of a whole.

- *Everything needs to be fed and sustained:* All material and immaterial beings have a reason within their existence. This existence in combination with others, allow for the survival of everything because everyone and everything needs everything and everybody else. Microorganisms feed on other things, and other things feed on microorganisms. Same for humans, humans feed on what nature produces in all its vast combinations, but only that which is necessary should be taken.
- *Everything has a mother, father and owner:* All that exists is the result of the union of two halves; the origin and owner of existence.
- *Everything has a language:* Everything in nature has a language for its existence. The elders know how to unravel the significance of messages from nature.
- *Everything has a reason for being:* Everything has a function in life, and everybody contributes based on his or her capabilities and abilities within the existence.
- *Everything is interlinked:* Everyone exists within a combination of living beings in nature. Air, fire, water and earth are necessary for life. This basic elemental combination makes life possible, and is creation and life within the concept for harmony, which much exist, in ancestral and current culture.

Mayan *cosmovisión* plays a role in framing and understanding the environmental impacts of mining. Nature is not considered an isolated part of reality, but integrated into social and economic dimensions, and has an inherent unity and sacredness in every dimension of life, and so that every element deserves respect and protection. Humans are therefore inseparable from their relationship with the earth and the broader environment (Urkidi, 2011). This reverential respect for nature is exemplified by the saying *madre tierra* (mother earth). To the Mayans, life is circular with humans coming from the earth (when they are born), returning to the earth (when they die) and coming from it again when another generation is born (Calan Tay, 2012). In this *cosmovisión*, maize, the staple food of the Maya populations holds a particular important place in the Mayan sense of place, constituting a pivotal foundation in the lives of Maya peoples. Its importance is not solely in terms of sustenance, but also linked to key spiritual, cultural and social activities. The Mayan term *santo maíz* (holy corn) indicates that the cultivation of maize holds special cultural significance to the extent that Mayans are referred to as ‘people of maize’ (Huff, 2006). Any disruption to the agricultural livelihoods not only deteriorates the only source of income for many families, but also



damages the cultural identity and social relationship of indigenous communities. Open-pit mining is therefore incompatible with the Mayan *cosmovisión*, which asserts a spirituality and harmony between humans, Mother Earth and the broader environment.

CPO, in their webpage<sup>23</sup>, clarifies how Maya identity plays part in anti-mining activism. In describing the consultation process, they characterize it as;

“a principle that has governed the collective life of our people, in all matters that require decision making, to never have unilateral decisions. The Council of Peoples of the West will prevail with the consultations in all its decisions to avoid unilateralism.”

Solidarity also constitutes an important component that also governs the life of the Maya, stating that peoples’ different needs will disappear with solidarity among them. Consensus, another major element in the consultations, is important because “the unilateral decision feeds into mistrust, however, consensus unifies, promotes trust and permits the garnering of ideas that lead to the completion of major communal projects“.<sup>24</sup>

van der Sandt (2009) observes an interesting contradiction to identity and anti-mining activism. Despite the indigenous majority in the Western Highlands, identity-related issues do not always dominate local discussions and local agendas. Mining does have a detrimental impact on cultural and social practices of the indigenous communities. However, other factors are affecting indigenous culture simultaneously as mining, including the rise of evangelical Protestantism and temporary labour migration to the United States. As mining is detrimentally affecting indigenous social structures and practices at the local level, the resistance it creates also galvanizes an *ethnic reorganization* that leads to an ethnic reconstruction and ethnic revitalization (van der Sandt, 2009).

### **5.2.1 Significance of community**

The community constitutes an important concept in the everyday life of the indigenous communities in the Western Highland. It can be understood in various ways; as an administrative unit, as an organizational structure, as a residents’ network or as the discursive construction that some actors develop around it. It is essentially the main organizational structure beyond the family. Community is an important concept in political ecology as a

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<sup>23</sup> <http://www.cpo.org.gt/index.php/identidad> Accessed 27.10.13

<sup>24</sup> <http://www.cpo.org.gt/index.php/identidad> Accessed 27.10.13

result of the concept being the locus of knowledge, regulation and management, a source of identity, the embodiment of various institutions, and object of state recognition and control, and a theatre of resistance and struggle (Urkidi, 2011). Community has therefore an important scalar component, and can accordingly be considered as part of ‘scaling from below’ where movements engage in broader scales in order to construct solidarities and political opportunities. ‘Below’ in this context refers both to ‘lower’ scales in territorial terms, and ‘lower’ in the sense of grassroots movements, marginalized groups and lower classes (Urkidi, 2011; Haarstad & Fløysand, 2007).

Community has two main meanings in Guatemala. The first denotes community as an administrative unit; an organizational structure. In Guatemalan law, communities are the territorial units below the municipalities, just above *aldea*, (hamlets), which is the smallest administrative unit in Guatemala. The second meaning refers to social and class features of Guatemala’s rural population. Consequently the term ‘people from the communities’ signifies both the peripheral and impoverished nature of the population, as well as a territorial scale (Urkidi, 2011).

The symbolic significance of the community must also be recognized. Centuries of marginalization and of imposed institutions by the Catholic Church and colonial authorities have structured the concept. It is an essential character of Maya culture with community being “[...] a historized identity related to the idea of traditional sacred community, where the cult of earth, landscape and mountain spirits had a central role” (Wilson, 1993 in Urkidi, 2011 p. 570). Urkidi’s (2011) research in Guatemala demonstrated how the anti-mining movement has reclaimed and reconstructed community as a relevant concept and as important spaces of decision-making. As a result of the impact of mining on the community, and the inherent rejection of mining, the community-subject has been recuperated as a collective subject and reclaimed as *the* legitimate scale for decision-making. In that sense the community-subject has become a victory in itself against state-imposed fragmenting forces (Urkidi, 2011; Castillo, 2009 in van der Sandt, 2009).

## 6 SOCIAL MOVEMENT THEORY

Social movements are playing an increasingly important role in conflicts involving indigenous peoples, states, and private interests in Latin America. Governments throughout Latin America have increasingly promoted natural resource extraction and infrastructure projects as platforms for economic wealth, which in turn has led to conflict between local communities and TNCs. As Escobar (1999) highlights, it is important to analyse social movements within the broader political context in which they are produced. One such contextual factor is the crisis and failure of development, which Escobar (1999) interprets as the destruction of traditions and the normalization of living conditions along Western standards. Social movements cannot therefore be understood separate from the broader crisis of the transition to modernity, a process that has had a major impact on the fabric of the Global South (Escobar, 1999).

An all-encompassing theorization on social movements falls outside the scope of this thesis; however, it is still essential to clarify several important features of social movements. Social movements can be defined as “informal networks, based on shared beliefs and solidarity, which mobilize about conflictual issues, though the frequent use of various forms of protest” (Crossley, 2002 p. 6). This definition is favourable to this thesis in that highlights the importance of *forms* of protest, in other words *repertoire*.

### 6.1 Different approaches

There are different theories to why and how social movements arise. Up to the 70s, two main approaches dominated the field of social movements. In Europe, a *Marxist* understanding of social movement centred on the relationship between capital and labour as the source of conflict. This approach came under criticism for not sufficiently explaining the complexity of new types of movements which included other types of social stratification, such as gender or women’s entry into the labour market. In the United States, scholars saw *collective behaviour* as crisis behaviour, essentially irrational and reflex responses, a manifestation of ‘mob psychology’ or collective hysteria (Crossley, 2002). By the mid-1970s, two new competing perspectives had emerged that attempted to fill the theoretical vacuum of Marxism and collective behaviour.

*Resource mobilization theory (RMT)* is centred on how collective actors operate and how they acquire resources and mobilize support, focusing on the political conditions that constrain and facilitate a movement (Della Porta & Diani, 2006; Crossley, 2002). RMT emerged in the United States in a context of a weak or non-existent labour movement or a social democratic class pact. Social movements had to, therefore, mobilize resources to gain representation in the political system (Della Porta & Diani; Edelman, 2001). This approach is actor-oriented, and movements are consequently seen as rational and purposeful, and they perform organized actions derived from a calculation of the costs and benefits. Movements are influenced by the presence of resources, and their capacity for mobilization depend on material and nonmaterial resources, such as work, money, services, authority and friendship. The type and nature of the resources available explain the tactical choices made by movements, and the consequences of collective action by the social and political system (Edelman, 2001). The *Political Process* approach shares with RMT the rational view of action, so much that they are often considered a unified approach (Della Porta & Diani, 2006). Its main focus is the political and institutional environment in which social movements operate; how external factors affect protest behaviour and the movement's political space. A main concept within this approach is the 'political opportunity structure', which interprets the interaction between institutional and non-institutional actors (Della Porta & Diani, 2006).

RMT received criticisms for having little applicability outside of Western Europe or Northern America, with its focus on mobilization processes and of well-endowed organisations. Critics contend that RMT disregards poor social movements with few resources, or social movements in contexts of extreme inequality, severe repression or hopeless odds (Edelman, 2001).

Theories on *new social movements (NSM)* have their roots in Europe departing from orthodox Marxist analysis' starting point of the industrial classes, and the representation of movements as largely homogenous subjects (Della Porta & Diani, 2006). While RMT has focused on *how* movements operate, NSM focuses on *why* social movements develop in the first place. The geographic expansion of neoliberal globalization has increased and intensified inequalities between classes and regions in such a way that it has changed the grievance structure underlying social movements. Consequently, NSM have focused on regaining autonomy and control over daily life, opposing the intrusion of the state and the market into social life (Nicholls, 2007). NSM have been more issue-specific, cutting across class lines to

represent larger segments. And of particular importance, they use a wider variety of unconventional tactics to contest grievances, using elements expressive of meaning and identity beyond purely instrumental goals (McCarthy, 2000). Examples of NSM include modern environmentalism, the peace and feminist movement and the Occupy movement.

NSM has historically found greater appeal in Latin America, providing many studies of collective action. A major explanation is the significance placed on civil society as opposed to political opportunity structures, in particular when considering the level of political repression and inequality found in Latin America. This permits an explanation of social movements as a reaction to economic and political processes of marginalization, as marginalized groups struggle to gain increased sovereignty over own living conditions (empowerment). This inherently implies a recognition of economic and power inequalities as key dimensions of collective action, factors that play a significant role in Latin America. Cultural practice as a force for political transformation has also proved to explain collective action in Latin America (Edelman, 2001). Escobar (1999) highlight this cultural dimension, stressing the need to regard social movements equally and inseparably as struggles over meaning, (e.g. cultural struggles) in addition to struggles over economic factors (material conditions). Social movement consequently find their *raison d'être* in submerged frameworks of meaning and in the daily practice of cultural innovation. Groups, such as indigenous groups, represent such alternative cultural hegemonies seeking to maintain a degree of control over their environment and worldview. Social movements in Latin America are therefore related to the transformation of many of the practices of development and modernity, a struggle that is profoundly cultural (Escobar, 1999).

## 6.2 Repertoires

The concept of *repertoire* was first introduced by Charles Tilly as a tool to better understand the dynamics of contention by focusing on the *methods* of resistance used by agents. Tilly defines repertoire as the “whole set of means [a group] has for making claims of different types on different individuals” (Tilly 1986, p. 2 in Della Porta & Diani, 2006 p. 168), and analysed the differences in types of contentious action in particular historical periods. From a scholarly standpoint, the repertoire concept has dominated RMT and political process traditions over the past decades (Taylor & Van Dyke, 2006), however the RMT and political process, and NSM are not mutually exclusive, and they complement each other in providing further insight into social movements. They are an integral part of understanding social

movements, and as Ennis (1987 in McCammon, 2003 p. 789) poignantly expresses, “the strategies and tactics that social movement actors engage in are the very lifeblood of movements, and movement collective activities help define their essential nature”.

An increasing number of citizens have since the 1970s channeled grievances through new and unconventional ways when faced with laws or decisions they consider unjust. Movements have adapted, selected and combined forms of collective action that people have responded to, creating new forms of resistance. The repertoire involves not only what people *do* in resistance, but *what they know how to do* (Tarrow, 2011). New repertoires have been aided by the development of capitalism from nation-state-based industries to TNCs, and have transferred political and economic power to sub-and supranational entities, as well as the proliferation of new media, such as television, mobile phones and especially the internet. This has facilitated the diffusion of protest and the mobilization to new groups, resulting in new ways of channelling grievances (Della Porta & Diani, 2006).

Repertoires are socially constructed, culturally inscribed and socially communicated. They can be linked to themes inscribed in culture, or they can be spontaneously invented. Most commonly they blend elements of resistance with new frames of meaning. Resistance is therefore part of societies’ public culture, constituting repositories of knowledge of particular routines in a societies’ history (Tarrow, 2011). They emerge out of the struggle and activities of everyday life, rather than abstract thinking. Movements choose their repertoire based in the ‘available stock’, implying a deliberate by constraining choice. The influence of history in a given geographical and/or social arena constitutes constraints for the repertoire choice, as well as the need for a certain degree of skill for specific techniques of protests (Crossley, 2002).

Tarrow (2011) makes a distinction between ‘old’ repertoires, developed during the nineteenth century, and its replacement. The *traditional repertoire* was direct, often violent, and usually aimed at achieving immediate change from close range-opponents. Its involvement was concentrated in a single community, varied from group to group, from locality to locality, and from issue to issue. The traditional repertoire was direct, inspired by their grievances and seldom moved beyond local or sectorial interests. Examples include food protests or riots or landless peasants claiming land. The *modern repertoire* is on the other hand cosmopolitan, spanning many localities or affected centres of power. They are transferred much easier from one setting or circumstance to another, and the activists started and initiated contact between

claimants and national centres of power autonomously. While the older repertoire tended to use the same type of action as the authorities, the modern repertoire involved deliberate organization and the invention of new and autonomous forms of resistance. In Europe and the United States, movements started relying on strikes, rallies, public meetings, as well as marches, petitions and the invasion of legislative bodies (Tarrow, 2011; Della Porta & Diani, 2006).

### ***6.2.1 Different repertoires***

The repertoire of contention offers movements three broad types of collective action – *disruption*, *violence* and *contained behaviour*. They combined to different degrees the properties of challenge, uncertainty and solidarity.

*Disruptive* action is at the core of contention, constituting the strongest weapon of social movements. The most direct form is the threat of violence, however disruptive repertoires have a more indirect logic. One aim is to display a movement's determination, by sit-ins, road blockades or occupying buildings. They also obstruct the routine activities of opponent or authorities, and can force them to negotiate. However, it can also broaden the circle of conflict, drawing authorities into a previously private conflict. However, despite disruption being the most powerful form of resistance, in that it gives weak actors considerable leverage against powerful opponents, it is not the most common or most durable. It reached its peak during the heydays of 1968-69, but then declined. This is because disruption depends on a continuous high level of commitment that seldom lasts very long. Therefore disruption allows for considerable innovation, as activists have to find new ways of challenging elites at the same time keeping sympathisers and the public interested. Lacking innovation, i.e. new ways of resisting, the majority of activists return to 'normalcy' leaving the most militants behind. This split between the moderate majority returning to normalcy, and the emboldened minority militant can descend a movement into violence (Tarrow, 2011).

*Violent* repertoires represent the most direct and visible of collective action. They often dominate the media picture, exemplified by guerrilla movements, suicide bombers or violence against immigrants in Eastern Europe. Violent repertoires vary considerably regarding coordination among actors and the short-term damage it inflicts, according to Tilly's (2004 in Tarrow, 2011) investigation *The Politics of Collective Violence*. Collective (or individual) acts of violence can vary from little to much damage, but they have low levels of coordination between actors. On the other end of the scale are violent rituals, with contain

a high level of violence and a considerable amount of coordination. The lynching of African Americans in the Old South is one example of violent rituals. Despite the ease of initiating and its shock-value, violent repertoires are rarer than other types of collective action. This is connected to the development of the modern repertoire when the nation-state got monopoly over the use of force of social control (Tarrow, 2011). Violence has consequently many limitations and constraints. Violence can cause an escalation of repression, as it gives the authorities a mandate for repression. As the state holds the legitimate use of force, violent collective action is doomed to fail, transforming political conflict into military conflict, which the state ultimately wins by greater firepower. This will alienate sympathisers, causing a polarization of the conflict between moderate activists and a minority militant group (Della Porta, 2006).

*Contained* collective action is the most predominant form of collective action, for the reason that it is collective action people know how to use. The sheer number of strikes, marches, demonstrations, petitions and meetings far outweigh disruptive or violent repertoires. Because repertoires are the by-product of every-day experiences, they are reproduced over time because of their familiarity. They consequently become part of a process that involves the tacit coordination of participants' implicit expectation. Furthermore, the low levels of commitment and low-risk character in contained collective action can attract a large number of participants (Tarrow, 2011). This logic of displaying numerical strength demonstrates the support the movement enjoys to a movement's adversaries and the larger public. With this logic in mind, marches, demonstrations and petitions are effective repertoires for displaying movement strength (Della Porta, 2006). Examples include the strike, and more importantly the demonstration. The demonstration is a classical collective action that transfers easily, and has become a major non-electoral expression of civil politics. Over time a repertoire becomes institutionalized as a movement gains benefits through negotiation and compromise, while the police learns to control it. This frequently results in the suppression of movements' more radical goals for more moderate ones, often a tactical change that results from the interaction between protesters and their opponents. But once a movement chooses an action form that crystallizes into convention, it becomes a well-known and expected part of the repertoire (Tarrow, 2011).



### 6.2.2 *Change in repertoires*

Social movements must find new ways of coordinating resistance and organizing themselves to sustain the mobilization. Through a process of innovation movements create, adapt and/or combine new and more effective ways of protesting. This innovation process is not a random reflex, but a critical learning process through trial and experience. Tarrow (2011) describes innovation as developing in three distinct ways. *Innovation at the margin* occurs incrementally and is used to enliven a familiar protest form by adding elements of play and carnival to it. While the change is small, it can over the long run transform into a whole new resistance form. *Tactical change* results from the interaction between protesters and their opponents. This innovation has been seen in the history of industrial relations; when factory managers locked out striking workers, and then the workers invented the sit-down strike (Tarrow, 2011). Such a relational process is reminiscent of a cat-and-mouse game, caught in a reciprocal process of action and reaction between activists and adversaries. The *paradigmatic change* refers to the long and slow historical evolution of the repertoire, indicating a major change to how people express their claims (Tarrow, 2011).

The factors that affect a movement's decision to employ a repertoire are complex and multi-layered. Tilly (1978 in McCammon, 2003) points out that a repertoire's familiarity, i.e. *it is what they know*, may reduce the likelihood to try out a new repertoire. Perhaps only when a movement is compelled to, will it employ a new repertoire thereby implying a need to know the context of available alternatives. Taylor & Dyke (2006) present three broad factors that may influence a movement's repertoire. The *level of organization*, which refers to a continuous debate over the way internal organization affects the repertoire. The *cultural frames* of meaning refer to the influence when a repertoire resonates with the activists' beliefs, ideas and cultural frames of meaning, not just because the repertoire is effective (Taylor & Dyke, 2006). Repertoires that are considered successful and well-suited to a movement's context or culture will more easily be transferred from one movement to the next (Della Porta & Diani, 2006). The *structural power* of the participants refers to the participants' relative position to the larger society. Impoverished or subordinate activists that lack political, economic power are more likely to engage in disruptive collective action (Taylor & Dyke, 2006).

The tactics used by movements also have implications for the movement's success. Three characteristics play a role in the anti-mining movement, *novelty*, *size* and *cultural resonance*.

*Novel* and innovative repertoires are more successful in policy changes, having a range of cultural effects including transformation in beliefs, ideologies and identities. The *size* of a movement might have a determining effect. Numerical strength captures media attention and follows a democratic practice by demonstrating a strong public and electoral support. It also has the disruptive potential of overburdening the authorities' capacity to repress protest. Lastly, a movement has a much larger chance of success if its repertoire has a *cultural resonance* to the mainstream belief and values. For example, a protest is more likely to be met with more favourable terms by the government if it adheres to non-violent and democratic principles. Consequently, the cultural difference between neo-Nazi organizations and the mainstream population explains their lack of policy gains (Taylor & Van Dyke, 2006).

### **6.3 Scale in social movements**

The broader processes of globalization have led to a restructuring of scalar organization, both upward to the global and downward to the local. In line with this reasoning, a significant source of power has the ability to jump scale, which influences the power relations between actors (Nicholls, 2007). This restructuring of scalar organization has led to political power being unevenly articulated across space and across geographical scales. For social movements that operate at the intersection of a series of overlapping state-spaces, (municipality, region, nation-state, international agencies), this uneven scalar articulation of power presents social movements with both opportunities and constraints in pressing their claims (Nicholls, 2007; Haarstad & Fløysand, 2007).

While the centrality of the state in collective action must be acknowledged, Bulkeley (2005 in Haarstad and Fløysand, 2007, p. 293) stresses that scale entails a “multiplicity of actors and institutions that influences the way in which global environmental issues are addressed across different scales”. New political spaces are created outside the bounds of states systems, composed of networks of social, economic and cultural relations, linking themselves via networks for specific political and social ends (Nicholls, 2007).

Kevin Cox's (1999) understanding has made an important contribution to the understanding of the politics of scale, focusing attention on how particular actors, organizations and movements operate across different geographical scales (McKinnon, 2010) by drawing a distinction between 'spaces of dependence' and 'spaces of engagement'. 'Spaces of

dependence' are understood as localized social relations that we depend on for the fulfilment of essential interests and for which there are no substitutes elsewhere. 'Spaces of engagement' is the construction of space for which the politics of securing a space of dependence unfolds, according to Cox (1998). Local and regional actors construct 'spaces of engagement' that link them to regional, national or supranational institutions in order to secure their local 'spaces of dependence' (Cox, 1998; McKinnon, 2010). It is in the spaces of engagement that jumping of scale takes place, where local issues can be rearticulated to for instance larger scales to mobilize political support and leverage (Haarstad & Fløysand, 2007). While Cox is mainly interested in upwards scalar movement, politics of scale also include how national and supranational actors seek to manipulate and control local spaces (McKinnon, 2010).

Social movements navigate conflict under the assumption that political power is unevenly articulated across space and geographic scales. The political opportunities will therefore vary between the local, national and international scales, depending on the country's institutions, international institutions and the nature of the political issues. The uneven scaling of political opportunities influences the geographical strategies, both those of social movements in their pursuit of claims, and those of elites who aim to outmanoeuvre social movements. Nicholls (2007) lumps such political strategies under the term 'scale jumping', where local issues can potentially be rearticulated at different scales to mobilize political support. Indeed, pressing claims at larger scales can be critical to the success for local grassroots movements (Haarstad & Fløysand, 2007).

Rescaling to achieve multiscalar strategies can be done through two mechanisms. The first mechanism is called *relational diffusion*, which is the extension of a movement through existing relational ties. Taking use of existing ties has the advantage that such ties already contain trust and shared identity, which facilitates the spread of social movements and provides a durable relational base for sustainable mobilization. On the other hand, spreading a movement along existing relational lines tends to be limited and localized, both socially and geographically. The second mechanism is called *brokerage*, and entails that mobilization expansion results from linking two or more actors that were previously unconnected. However, linkages from brokerage can be more fragile because they are made up of different groups and possess weak mechanisms of social integration (Nicholls, 2007).

These *multiscalar strategies* create new relations across traditional geographical and social boundaries, enhancing the reach and effect of social movements. Social movements are effective at multiscalar strategies, exploiting opportunities at one scale to open opportunities at other scales (Tarrow & McAdam, 2005). Rescaling does not, however, automatically result in beneficial political leverage or empowerment to social movements. The notion that actors or institutions that operate in the larger scales inherently possess more power than actors at more localized scales is wrong. Rather, acknowledging that power has no spatial template, rescaling then should be understood as a process where social relations are articulated in new ways across scales, dependent on the linkages with discourses and networks (Nicholls, 2007).

## 7 CHANGE IN RESISTANCE

*“The consultation is an ancestral principle that determines  
the participation and the peoples’ decision-making”*

*- (CPO, 2012, p.46)*

Grounded on a tripartite theoretical framework on theory of mining as dispossession, indigenous identity and social movements, I will analyse why and how the anti-mining movement turned to the community consultation as the main repertoire of resistance, and what that change has entailed.

The anti-mining movement started in the municipalities of Sipacapa and San Miguel Ixtahuacán, as these mine-adjacent communities were the first to feel the social and environmental impacts. Despite increasing conflict and evidence of social and environmental offences (e.g., van der Sandt, 2009), Montana was allowed (by the state) to continue. The early repertoire of resistance was overwhelmingly *disruptive* and sometimes *violent*, such as when protesters clashed with the authorities, blocked roads and access to the mine. *Contained collective action* was also a common tactic, in particular demonstrations and marches. While the early repertoire in San Miguel Ixtahuacán and Sipacapa did not accomplish the closure of the mine, they had several beneficial effects. They diffused information about the mining conflict to other communities, thereby enlarging the space of engagement (Cox 1998) by rescaling it upwards to include more communities. The early resistance also brought the extractive industries to the local, national and international spotlight, enabling the resistance to spread and intensify. It was not, however, until the first community consultations in Sipacapa in 2005 that marked the beginning of a new type of resistance, a new repertoire of *constrained* collective action based on the community consultation as the primary tactic. The subsequent period saw fewer disruptive actions, fewer violent actions and an essentially more effective form of contained collective action; community consultations, coupled with marches and demonstrations. Since the first consultation in 2005, over 65 community consultations have taken place so far<sup>25</sup> in the departments of Huehuetenango, San Marcos, Quiché, Quetzaltenango, Guatemala, Zacapa, Alta Verapaz and Santa Rosa, resulting in a

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<sup>25</sup> <http://www.americasquarterly.org/mining-conflict-and-indigenous-consultation-guatemala> Accessed 24.08.13

overwhelming rejection of mineral extraction (and other megaprojects). In all, over 1 million people, indigenous and non-indigenous have rejected mineral extraction (and other megaprojects) in their territories via the community consultation (Yagenova, Donis & Castillo, 2012). What started as a local conflict (San Miguel Ixtahuacán and Sipacapa) to local grievances (the Marlin mine), evolved into a regional anti-mining movement in opposition of the threat of mining and the lax awarding of licenses without legitimate community consent. The movement also became a movement in opposition to the system that supports mining, the neoliberal development model. The adamant and lenient awarding of licences to mining companies by MEM, currently 108 active metal mining licenses and 350 in process as of October 2013<sup>26</sup>, exemplify the looming threat the extractive industries represent. The proliferations of licences also indicate a worrying lack of consent and respect for the communities, as each licence requires a consultation if it affects indigenous communities, according to ILO169.

I will argue that the anti-mining movement's adoption of the community consultation as the main repertoire of resistance was a *tactical* change, developed from the interaction between the anti-mining movement and the decision-makers. Firstly, the political defeats by the early movement prompted a search for a bold and new tactic that could alter the power dynamics in the social conflict. The early defeats caused the anti-mining to re-evaluate the strategies and to reconsider whether constituted an effective repertoire. And indeed, the community consultation turned out to be much more effective as a repertoire of resistance, as will be argued. Second, I will explain that the community consultation have an inherent scalar power the old repertoire did not possess. The consultations have enlarged the spaces of engagement, spreading resistance from two municipalities to encompass the Western Highlands and many more actors. And third, I argue that community consultation as a tactic resonates with the Maya peoples beliefs, ideas and cultural frames of meaning, a major reason for its successful adoption. The community consultation is inherently linked to their indigenous identity, resonating with their *cosmovisión*.

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<sup>26</sup> <http://www.mem.gob.gt/viceministerio-de-mineria-e-hidrocarburos-2/estadisticas-mineras/> Accessed 02.10.13

## 7.1 Scale and the importance of information in the initial resistance

Anti mining resistance emerged in Sipacapa from the information flow from national and supra-national social actors towards local ones, according to Urkidi (2011). In early 2004 Guatemalan environmental NGO Madre Selva started to point to the social and environmental consequences of mining by drawing attention to events at a Goldcorp mine San Martín in Honduras. Organizations like such as Madre Selva were already linked to international environmental NGOs, like OilWatch and to networks in Latin America, such as the Central American Anti-Mining Network (Urkidi, 2011). Indigenous community leaders, increasingly worried about the Marlin project, started communicating with MTC (*Movimiento de Trabajadores Campesinos*), the Diocese of San Marcos, CALAS and Madre Selva to receive information on the benefits and disadvantages of metal mining. This led to a visit by Sipacapa community leaders to the Goldcorp mine in Honduras, and upon their return the Sipacapa community leaders started an information campaign among the population, warning and informing on the dangers of mining (van der Sandt, 2009). To Fernando García (COPAE, interview), the commencement of anti-mining resistance depended on acquiring information about mining from a variety of sources. And due to the technical nature of this information, international organizations played an important role in disseminating this technical information to national organizations.

Another example of the cross-national diffusion of information was when an Italian pastoral worker based in San Marcos informed community leaders of Sipacapa about the possibility of holding community consultations on the issue of mining. This was in light of the successful community consultation on the Canadian goldmine in Tembrogrande, Peru (van der Sandt, 2009). This multiscale information flow to the communities of Sipacapa and San Miguel Ixtahuacán can be interpreted to have taken place via the mechanism of *brokerage*, by connecting two or more actors (international NGOs and local communities) that were previously unconnected through various brokers, i.e. the national organizations. Brokerage has accordingly expanded the scope of the movement and its alliances. This multiscale information flow played a major role in the emergence and spread of anti mining resistance in Sipacapa, and gradually elsewhere in the Western Highlands.

Both Teresa Fuentes and Fernando García (COPAE, interviews) highlighted the fact that the communities (and local organizations) were unprepared to comprehend and handle the complexities transnational mineral extraction entails, in particular considering that extraction takes place within an indigenous context. “So, when the topic of mining arrived, we had absolutely no idea of what that entailed, of what it signified or anything” (Fernando García, COPAE, interview). The affected communities were essentially in an informational vacuum, anxious to receive information regarding the mine. This need and urgency for information initiated the creation of COPAE.

“So, many people came to us for information, also because of the government’s neglect. So you went to talk to MARN<sup>27</sup> and they knew absolutely nothing about the issue. You went to talk to the political authorities in charge of regulating and looking after the environment, and neither they gave much information. So the diocese decided to create an office to provide answers to all of this” (Fernando Garcia, COPAE, interview).

And as the conflict prolonged and dragged on, the channels of sharing and spreading information also gradually evolved. Organizations such as COPAE and CPO started using social media, including Facebook<sup>28</sup> and other Internet channels to spread information and coordinate activity. Indigenous community radio networks transmitted information to remote communities that suffer low literacy rates, or are technologically ‘cut off’. Many organizations, such as COPAE, ADISMI (*Asociación de Desarrollo Integral San Miguelense*) and national organizations, such as CALAS, la Plataforma Holandesa and Madre Selva, enabled the anti-mining movement to successfully spread information on the social and environmental consequences of mining. It essentially enabled a geographic and social expansion of anti-mining activism. *Geographical* expansion meaning actors from outside the Western Highlands were included in the movement, and *social* expansion meaning that other social actors, i.e. non-indigenous or other nationalities or socio-economic groups, could participate anti-mining activism. Fernando García (COPAE, interview) jokingly explained how NGOs started ‘falling out of the sky’ once Marlin started extraction. It can therefore be said that the use of new technologies and social media enabled the comparatively localized anti-mining resistance to connect two or more actors that were previously unconnected, akin to *brokerage*. However, brokerage alliances and linkages are not strong and permanent

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<sup>27</sup> Abbreviation for *Ministerio de Ambiente y Recursos Naturales*, the Ministry of Environment and Natural Resources.

<sup>28</sup> <https://www.facebook.com/cpo.comunicacion> and <https://www.facebook.com/copae.marcos>



(Nicholls, 2007), a point iterated by Fernando García, (COPAE, interview). He claimed many of the foreign NGOs were involved in the mining conflict out of monetary reasons, stating that the mining conflict ‘sold well’ in Europe and North America, and “gradually the time went and we saw who was there for economic interest, and who was there for the interests of the population and the peoples resistance” (Fernando García, COPAE, interview).

## **7.2 Early resistance,**

While a complete review of resistance to Marlin and mining is outside the scope of this thesis, I shall nonetheless identify key events that serve to exemplify the type of repertoire that characterized the early years. These events serve to demonstrate certain strategies behind early anti-mining resistance, as well as the logic inherent in them.

While the construction of the mine in 2003 marked the beginning of the social conflict, it was not until the violent events in the town of Los Encuentros in Sololá in December 2004 that the conflict gained national, and to a certain extent international attention. The events in Los Encuentros started with a spontaneous roadblock to halt a convoy transporting heavy machinery, including a giant milling cylinder (Garcia, 2010; Urkidi, 2011; van de Sandt, 2009; Yagenova, 2007; Yagenova, Donis & Castillo, 2012). According to Fernando García (COPAE, interview), a rumour spread that the equipment was to be used to channel water away from a nearby lake, when in reality it was destined to the Marlin Project. However, the authorities deemed it unnecessary to inform the communities about this beforehand. When the blockade temporally prolonged, the authorities decided to forcibly end the blockade by sending in the 1500 National Police officers as well as 300 army soldiers. In the violent confrontation that ensued, many protesters were injured and one indigenous protester was killed by military fire. The blockade ended up lasting 40 days. Then President Berger defended these actions by saying, “[the government has] to protect the investors” (van der Sandt, 2009, p.15), while Minister of the Interior Carlos Vielmann stated that “all efforts will be made to ensure that the rule of law is upheld with any number of police officers that may be necessary” (Castagnino, 2006, p. 25), statements that exemplify the neoliberal character of the Guatemalan state.

San Miguel Ixtahuacán was an epicentre for spontaneous *disruptive* and occasionally *violent* collective action in the early years. After the establishment of Marlin, and subsequent exploitation, mine-adjacent communities in San Miguel Ixtahuacán were the first to

experience the environmental and social impacts of the mine. Community members attempted with the help of local organization ADISMI establish dialogue with the management of Montana to discuss grievances, in particular labour conditions and Montana's controversial land acquisition process. They were permitted to present a formal petition of complaints, however community members felt Montana's management did not take their grievances seriously. Montana responded with technical legal arguments, arguing the company had done things by the book and that past negotiations could not be reopened. Frustrated by the lack of cooperation, about 600 community members blocked three entrance roads to the mine that effectively paralyzed mining operations for 10 days. Montana and the authorities responded, as in Los Envuntros by sending in the National Police, as well as Montana's private security force. The blockade was only removed after Montana assured it would reopen negotiations, which never happened, according to van der Sandt (2009). The authorities responded to this protest by raiding nearby villages and arresting resistance leaders, several whom were imprisoned without charge. Several were eventually released, but two were sentenced to two years to a type of house arrest (van de Sandt, 2009). There was a similar event in Sipacapa in 2006 when 150 inhabitants from the community of Salem blocked the passage of vehicles to and from the mine. This was a response to the decision by Montana to close a road used by the inhabitants when it came within Montana's property, and to the dust generated by the heavy traffic to and from the mine on nearby community roads (Yagenova, Donis & Castillo, 2012).

In 2008 community members of Agel in San Miguel Ixtahuacán saw a conflict develop between local residents and Montana, resulting in the criminalization and imprisonment of a group of women. It started when Montana decided to place high-power cables to provide electricity to the mine over the properties and houses of Agel in 2005. A group of women opposed this action arguing the presence of high-voltage power lines in near proximity represented a health hazard, but their complaints fell to deaf ears, and the power lines were forcibly established, according to testimony from community members. When their continuous complaints over the power lines were ignored, a group of women sabotaged the power lines in 2008 effectively cutting power to the mine for almost 30 hours. The authorities and Montana responded to this action by sending out 35 police officers and Montana's own security force, and re-establishing power. In the situation that followed, Montana reported seven Maya-Mam women community leaders to the courts on charges of aggravated

usurpation, coercion and conspiracy to commit crime (Yagenova & Garcia, 2009; Yagenova, Donis & Castillo, 2012).

The events in Los Encuentros, San Miguel Ixtahuacán and Sipacapa serve to demonstrate the dynamics of the repertoire of resistance in the emerging anti-mining movement. Fernando García (COPAE, interview) describes the early repertoire as consisting mainly of “[...] protests, non-violent of course, but they could cause certain discomfort, including acts of violence. For example cut power lines, block roads, block access to buildings.”

The acts of disruption and violence were ‘spontaneous’ responses to local and specific grievances, i.e., community members being denied access to a particular road or specific communities not being able to establish dialogue with Montana. Disruption is, as Tarrow (2011) makes clear, the repertoire that gives weak actors leverage over powerful opponents. Besides the instrumental value of blocking a road or sabotaging the power supply to Marlin, halting production and causing economic damage, disruption, and to a certain extent violence, served to demonstrate to Montana, the authorities and the wider public, the level of opposition to mining, and the determination of the activists. And running parallel with disruption and violent collective action were acts of contained collective such as petitions, marches and demonstration. These protests displayed numerical strength to the outside world and to the authorities with the goal of influencing public opinion, the final repository of political power (Della Porta & Diani, 2006).

The acts of disruptive, violent and contained collective action consequently identified a common adversary to community members, and helped establish common goals. By joining together in anti-mining resistance, a common identity was reinforced; indigenous people in defence of territory. Anonymous 1 (interview) describes anti-mining activism as *cultural activism*, connected to the rescue of culture and the articulation of the communities. It is a source of pride. The early repertoire was also successful in obtaining media attention. For the first time, metal mining was in the national and international spotlight, and local communities received assistance from national and international organizations.

### **7.2.1 Multi-strategy resistance**

However, anti-mining resistance was varied in the early years, both in protest form, actors involved and of its geographical intensity and extensity. Social activism is prevalent in Guatemala, a point iterated by Yagenova, Donis & Castillo (2012). During 2005-2011

Guatemala experienced approximately 4584 protests at the national level, an indicator of the level of social conflict and protest in Guatemala. Anti-mining resistance included many tactics, such as marches, demonstrations, petitions signings, picketing, conferences, seminars, and the more disruptive and violent tactics, such as taking hostages, blocking roads, or occupying buildings or installations<sup>29</sup>, to name a few. For example, in 2005 representatives from six departments created the *Western Front against Mining* to represent indigenous populations in mining matters. This front hosted a large event in 2005, the *First Regional Conference of Indigenous Authorities of the Western Highlands*, and the *Regional Mayan Legislative Meeting*, where mining was an important topic. Countless regional meetings, conferences and workshops were organized and held with the aim of sharing information and experiences, networking and strengthening communities. Many communities pre-emptively held announcements or statements rejecting mining in their territory. In Sipacapa in 2006 an alternative peoples power structure (the Sipakapanese Civic Committee) was created which won local elections against the traditional and better funded and organized political parties (Yagenova, Donis & Castillo, 2013; van der Sandt, 2009), and in 2009, ACAS was established in Sipacapa to provide community members a eco-agricultural option to mineral extraction, an to prevent seasonal agricultural labour migration (Fausto Valiente, CALAS, interview).

There was a strategy of up-scaling legal resistance to the national and international scale, the locus of legal power. In 2008 CALAS challenged eight articles of in mining law in the Conditional Court, and in June 19, 2008 the Constitutional Court ruled that seven of the eight articles were in fact unconstitutional, specifically those that refer to the emission of license. This resulted in a short-lived ‘technical moratorium’ on granting further mining licences (van der Sandt, 2009; Dr. Yuri Melini, CALAS, interview). Several international institutions were during 2005-2010 asked to look at the Marlin case, including The Inter-American Court of Human Rights, the ILO, the United Nations and the World Bank (The World Bank’s financial division, the International Financial Corporations, granted Goldcorp with a \$45 million loan to finance the construction of Marlin). In 2010, the ILO and the United Nations Committee on the Eliminations of Racial Discrimination declared the Marlin mine illegal on grounds of human and indigenous rights violations. The verdict ruled in favour for a

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<sup>29</sup> For a more detailed account of the anti-mining resistance, I refer to Yagenova, Donis & Castillo (2012) and van der Sandt (2009)

precautionary closure of the Mine on grounds of its potentially detrimental human health and environmental consequences. However, since the ruling was not a national binding resolution, Marlin mine continued to operate (van der Sandt, 2009; Urkidi, 2011; Yagenova, Donis & Castillo, 2012). The re-scaling of legal resistance at the national and international laws have indeed enlarged the space of engagement, but its results have been mixed, according to Fulmer, Godoy & Neff (2008). One particular inherent weakness in supranational institutions is the lack of enforcement power to verdicts. Another point concern is that Guatemala national law has pre-eminence to supranational law, effectively devaluing the power the international scale. Fulmer, Godoy & Neff (2008) remain unconvinced that the international scale is the correct scale to provide tangible and concrete legal gains to the anti-mining movement. To them the international scale is a source of legitimacy and discursive power;

“[...] but ultimately the law cedes true decision-making authority on all relevant points to a government agency that is concerned above all with facilitating mining and economic activity. International law opens spaces for aggrieved parties to state their case in a court of law, where important and tangible benefits have been secured for ingenious people in a few cases. This approach to legal regulation, however, is cumbersome and sometimes effectively impossible for communities to pursue; it offers in most cases, only a post hoc remedy, as opposed to forward-looking governance” (Fulmer, Godoy & Neff, 2008, p. 113).

Despite a proliferation of multiscale strategies, resistance remained quantitatively and qualitatively contained in the communities threatened by mining. Demonstrations and marches dominated the social protest in the beginning, says Fernando García (COPAE, interview). The march and the demonstration have historically been very common in Guatemala. In Guatemala the *barricade* or the *roadblock* constitute the most commonly used form of resistance, according to Paz y Paz (2006) who has identified the most common protest forms to environmental grievances in Guatemala. The main users of barricades or roadblocks are rural community members, often in very remote areas, with the purpose of drawing attention to their grievances and claims. The second most common protest form is *picketing* which is primarily carried out in urban areas against public institutions or private installation involved in the conflict. The third most common protest forms is the *demonstrations* and/or *march*, and the main protagonists are mostly community members or rural inhabitants against public institutions or private corporations (Paz y Paz, 2006). There are several possible explanations behind the prevalence of the march and the demonstration

in Guatemalan social life. One explanation may refer to its *historical specificity* in Guatemalan society. They have emerged out of the struggles and activities of everyday life, which suggests a deliberate but constrained choice. The march and the demonstrations as repertoires have been handed down, reproduced over time because of its familiarity when they want to protest (Crossley, 2002; Della Porta & Diani, 2006). Given that a repertoire requires a certain degree of skill in performing (Crossley, 2002), the socio-economic constraints in the Western Highlands has in all likelihood constituted a constraint, influencing the choice of repertoire. The high levels of poverty and low levels of education and literacy have made the march and demonstration the repertoire people know and what has historically been done.

### **7.3 Limits to the early repertoire**

As already established, the early resistance started in mine-adjacent communities of Sipacapa and San Miguel Ixtahuacán, primarily in response to local grievances. These communities were first to feel the detrimental consequences of an open-pit gold mine, and therefore they protested using the repertoire they knew and had historically used; *disruption* (road-blocks), *violence* (clashes with the authorities) and *contained collective action* (petitions, marches and demonstrations). This repertoire was however not producing the desired results. The mine was still operating, MEM still kept awarding licenses without dialogue with the communities and the national authorities were indifferent to the conflict brewing in the Western Highland.

A major problem was that the early repertoire did not effectively manage to create a cohesive and unified anti-mining movement. This was a major obstacle to unifying and rescaling the movement. According to Fernando García (COPAE, interview),

“[...] the people from the capital did their war for their part, we practically did our for our part. Protest tended to occur alongside parallel and disconnected tracks. This form of isolationism, the notion that communities think and act isolated, with own interests in mind, is a feature that characterizes Guatemalan social life” (Fernando García COPAE, interview).

This lack of cohesion and cooperation was compounded by the lack of central and influential leadership figures. The only unifying leader was Bishop Ramazzini of San Marcos, who facilitated the establishment of alliances (Garcia, 2010). The anti-mining movement also lacked central and unifying organizations, such as COPAE or CPO during the early years that could represent the communities in negotiation with authorities or companies. This lack of

organizational capital resulted in little effort spent on ‘*articulación política*’, the establishing of a common political platform, and promoting cooperation and coordination between communities in resistance (Fernando García, COPAE, interview).

As the mining conflict persisted, the anti-mining movement started showing signs of exhaustion and fatigue, especially in communities near the mine in San Miguel Ixtahuacán and Sipacapa. According to Fernando García (COPAE, interview),

“[...] the people were becoming fed up with making declarations and doing interviews. They come, they take your photo, as what happened with the cracked houses. A group of Germans came, they took photos of the cracked houses and then left. And the people were left with their cracked house. The next years a group of Canadians came and they took the photos, saying, “We’re going to help”. But absolutely nothing happened, [...] there aren’t any changes and the mine still exploits. And the people were a bit fed up with all of this.” (Fernando García COPAE, interview).

### ***7.3.1 Disruptive, violent and contained collective action***

Despite the fact that disruption gave community members a powerful tool against Montana and the authorities, it had several shortcomings. First, it is difficult to maintain a continuous high level of commitment amongst the impoverished community member, whose foremost desire is to live out their daily lives. The fatigue described by Fernando García (COPAE, interview) made disruption a difficult repertoire to maintain over a long period of time.

Another major contributing factor for abandoning disruption and violence was Montana’s and the authorities’ response of criminalizing protest. The state’s monopoly over the use of force and the neoliberal character of the state leaves little action-space for performing disruption and/or violence. The events in Los Encuentros and in the mine-adjacent communities of Sipacapa and San Miguel Ixtahuacán illustrate how the state has reacted when confronted with such tactics; deploying military and national police, as well as Montana’s own private security force. According to Claudia Samayoa<sup>30</sup>, a social movement activist and philosopher, the state has revived a previous discourse of ‘internal enemies’ against political opposition, dissidents and those who question the status quo. This change in discourse coincides with protests to the implementation of the free trade agreement CAFTA-DR in 2004. Similarly, in the Western Highlands, Montana and the authorities has utilized a similar discourse against

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<sup>30</sup> Ibid.

anti-mining activists; “popular resistance activism against the mine is immediately put with the label of communist, or anti-development” (Fernando García, COPAE, interview). According to *Fundación Rigoberta Menchú* (in Yagenova, Donis & Castillo 2012) this is a strategy of criminalizing the right of displaying grievances. The considerable economic interests in mining suggests politico-economic elites search for ways to obstruct and curb peoples grievances by communicating the possible consequences of trying to enforce their rights. Furthermore, Guatemalan law contains a classification in the criminal law that regulates citizen disagreement, a criminal code that has been used to accuse activists of disturbing public order and/or generating un-governability (Garcia, 2009). This strategy of criminalizing protest is not new in Guatemala. According to Holden & Jacobsen (2008), a similar protest in 2005 against the Fenix Project in eastern Guatemala saw similar violent reaction by the state, including violent evictions by the police and military. The use of military force in internal conflicts is a cause of worry considering that the 1996 peace accords prohibit the army from participating in police function.

Another possible reason for the abandonment of disruption (and violence) is what Tarrow (2011, p. 104) calls the lure of politics, meaning activists become drawn to more contained forms of collective actions, such as marches, demonstrations, which indeed became common, but also to another form of contained action; the community consultation. Once the majority of activists participate in contained collective action, the consultation, the movement lost its disruptive character.

The political defeats by the anti-mining movement were an important catalyst for the repertoire change, according to Fernando García (COPAE, interview). “I remember in the beginning, we were very naïve, more than an eight year old boy, because we thought we could close the mine.”, and on explaining the effectiveness of demonstrations and marches, “[...] we stopped doing that, not because we were bored, but because we found out that we were going nowhere” (Fernando García, COPAE, interview). Anonymous 2 (interview) also felt that the anti-mining movement was being dismissed as ‘impoverished and ignorant peasants’, not being taken seriously by the authorities and Montana. This lack of any meaningful change and/ the inability to cause significant change to the situation sent a message that the current repertoire was ineffective, and that a change was needed. Confronted repertoire that did not work caused the movement to search for alternatives.



Another probable explanation is that demonstrations and marches had little cultural resonance with the beliefs and values of the majority population, and were thus largely ignored or downplayed by the decision-makers and the majority population. This is perhaps due to the bipolar view of ethnicity, and the hierarchical ranking of different groups of peoples, making the sight of indigenous peoples claiming public space in marches and demonstrations have a limited effect on them. Also given the neoliberal character of the state and the economic stake in mineral extraction, the display of indigenous peoples marching in the Western Highland had in all likelihood had little effect on Ladino decision-makers. This inevitably caused the anti-mining movement to find better ways to reach decision-makers in a way that resonates better with their beliefs and values.

## **7.4 Community consultation resistance**

If a main purpose of a social movement is to influence public opinion through various ways by putting pressure on decision-makers (Della Porta & Diani. 2006), a movement that consequently fails at this must reinvigorate and innovate in order to succeed. When confronted with the constraints in the early repertoire, the anti-mining movement gradually abandoned those tactics. Parallel to this ‘repertoire crisis’ in communities in resistance, a new and innovative type of resistance took place in Sipacapa.

This process started in 2005 with one of the first community consultations in Sipacapa. Unknown to anyone at that time, the Sipacapa community consultations were to have an enormous influence in shaping the course of anti-mining resistance. Many indigenous communities throughout the Western Highlands have followed in Sipacapa's footsteps and held their own community consultations, effectively rejecting mining and neoliberal development in their territories.

### ***7.4.1 The Sipacapa community consultations***

The events leading up to the one of the first community consultations in 2005 were connected to community concern and unease to the recently encountered environmental and social problems attributed to the start of Marlin's construction phase in early 2004. Sipacapa saw an influx of foreign labourers settle in the lower (in terms of altitude) parts of Sipacapa as the lower parts of Sipacapa had available land due to unfavourable agricultural properties. Foreign workers carried with them and introduced to Sipacapa new social patterns of alcohol consumption, firearms possession, sex trade, as well as incidences of sexual abuse (van der

Sandt, 2009; Anonymous 1, interview). This started a process of culture loss, social fragmentation and community disintegration, says Anonymous 1 (interview). A great concern were threats to social cohesion between community members that were in support of the mine and community members that were in opposition to the mine. The introduction and circulation of greater amounts of money from Montana was also increasing inequality and discrimination amongst school children, between children whose parents had employment at the mine and children whose parents did not (Anonymous 1, interview).

Anonymous 1 (interview) also explains that anti-mining awareness in Sipacapa grew out of the experiences of anti-mining resistance (or lack of) in the neighbouring municipality, San Miguel Ixtahuacán. The process in San Miguel Ixtahuacán was more difficult. Mining criticism was not shared equally among community members, since the municipal authorities had been in early negotiations with Montana. Teresa Fuentes (COPAE, interview) explained that Montana had ‘bought off’ the majority of public officials, which resulted gave Montana considerable influence and visibility in San Miguel Ixtahuacán. The presence of an office by Montana’s local development organization *Fundación Sierra Madre* in San Miguel Ixtahuacán is a testament to the mine’s influence. Urkidi (2011) argues that San Miguel Ixtahuacán lacks a historical rebel identity, that in Sipacapa. This led to weaker and less organized resistance in San Miguel Ixtahuacán. Therefore the type of resistance emerged slowly and in relation to Montana’s practices, says Urkidi (2011). This led to important experiences for authority figures in Sipacapa, according to Anonymous 2 (interview). The communities of Sipacapa had observed the controversial process, and the mine’s impact, and decided to take steps to avoid similar problems. Sipacapa needed a community-wide discussion *and* a decision on the state of mining in their municipality.

A year earlier, Montana had started to hold information meetings where community members could learn about the upcoming plans for the project. These meetings, however, only provided selected information (benefits of mining), and Montana wrote down (registered) the names of attendees as having been consulted. Despite Montana’s insistence that it had performed a consultation process, i.e. the information meetings, it was clear that the communities of Sipacapa had not been consulted in according to the law; through *appropriate procedures*, in *good faith* and through the *representative institutions* of the indigenous communities (van der Sandt, 2009). MEM’s vice-minister Jorge García endorsed Montana’s actions stating that Montana had conducted several consultations, and that procedures were carried out through the local authorities. However, representatives from

Sipacapa did not recall having been consulted as Montana and the vice-minister described. In light of the graveness of the situation, the Human Rights Ombudsman's office investigated and concluded that no consultation had taken place (Castagnino, 2006). Community leaders, suspicious and frustrated by Montana's lack of communication, had during this process contacted several NGOs based in San Marcos and Guatemala City to gain access to information on the benefits and disadvantages of mining. Also, an Italian pastoral worker introduced the idea of holding community consultation, as the communities of Tembogrande in Peru had successfully done against a Canadian goldmine. This example of the scalar diffusion of information enabled the development of the first community consultation on mining in the Western Highlands.

In June 18 2005, Sipacapas 13 communities held community meetings in which the assembled people were explained the procedures and to answer the question by raising hands. The act of voting by raising hands is a traditional Mayan democratic custom, which underscores that the consultations were carried out according to the customs and traditions of the Sipakapense people. A technical committee, made up of selected representatives of the NGOs working in Sipacapa were responsible for operational and methodological support, and experts from other organizations gave logistical and technical advice and support. Of the total number of 2,564 enfranchised voters, 98% voted against to the question "whether the Sipakapense people agreed to have chemical metal mining in their territory, yes or no?" (van der Sandt. 2009)

The consultations were quickly and fiercely contested by businessmen, politicians and lawyers. At the core of the dispute was an inner contradiction in the Guatemalan Municipal Code on minimum voter participation, which regulates whether a consultation is legally binding or not; Article 64 establishes 20% voter turnout while Article 66 establishes 50% or more. The voter turnout in Sipacapa was 45% (van de Sandt, 2009). This discrepancy is because the Municipal Code is establishes a higher standard of participation for voting when procedures are the customs and traditions of indigenous peoples, including voting by show of hand. Indigenous voting forms require 50% voter participation, as opposed to the 'normal' 20%. This provision has been denounced as racist and discriminatory as indigenous communities are held to a to a more rigorous standard than other communities (Fulmer, Godoy & Nedd, 2008), Given the significance of the situation, the dispute became legal and went as high as the Constitutional Court which ruled in 2006 that the community consultations were procedurally correct, and results valid. This ruling had great impact in

communities in resistance, which were observing the consultation process and in consideration of holding their own consultations. However, in 2007 the Constitutional Court overturned its previous verdict as unconstitutional, and ruled that community consultations results are legitimate (*válida*) but not binding (*no vinculante*). The new ruling was based on article 121 on the Guatemalan constitution, which asserts national ownership over subsoil resources, whose exploitation is to be in the interest of the nation. Municipalities have therefore no competency to decide over these resources (van der Sandt 2009; Fulmer, Godoy & Neff, 2008).

The debate on the legality and validity of community consultations continues in Guatemala to this day. Despite the negative ruling by the Constitutional Court in 2007, in effect placing community consultation results in a legal ‘limbo’, the events in Sipacapa in 2005 changed anti-mining resistance, prompting a significant change to the repertoire of resistance

#### ***7.4.2 Proliferation of consultations***

Given the media attention the Sipacapa consultations generated and the national reverberations, other communities started enquiring about holding their own community consultations. The government’s pro-business, pro-mining stance and the Ministry of Mining and Energy’s lax granting of mining licenses pointed to the fact that mining will be a recurring issue for the Western Highlands. While closing the Marlin mine was a ‘lost cause’ (Fernando García, COPAE, interview), other communities were concerned that similar events could transpire in their territories.

While it is the state’s responsibility (because ILO169 enjoins *states*) to hold a community consultation whenever a measure may affect indigenous communities, the Guatemalan state has played no role in organizing any of the consultations, instead they have been reacting angrily and denouncing them as illegal and illegitimate. And letting companies hold the consultations would also present a host of problems concerning legitimacy, objectivity and validity. In effect, the communities have been consulting themselves, even though ILO169 does not imply or contemplate self-consultation (Fulmer, 2010). With the successful community consultations in Sipacapa as a precedent, over 61 community consultations have been held up to 2011 (SNDP, 2011). Communities throughout the Western Highlands have taken upon themselves to organize and consult to pre-emptively reject tangible threats, such as mining licenses on their territory, or the possibility of mining (and other mega-projects) or

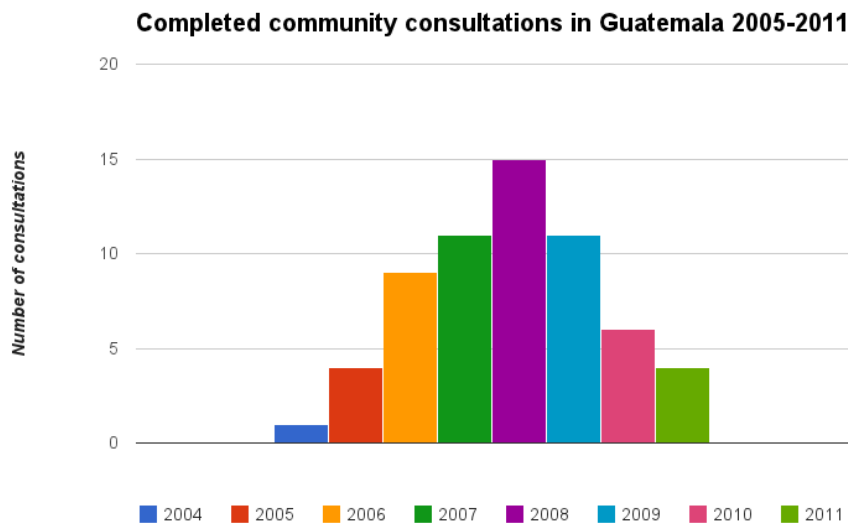
similar neoliberal development in their territories. Teresa Fuentes (COPAE, interview) explains the rationale behind the growth of the consultations;

“So we start to see that it’s not a local problem in San Marcos, it’s a territorial problem. And through COPAE and the organizations that it supports, and through the resistance in San Miguel Ixtahuacán and Sipacapa itself, the people start to see that the solution to stop the licences, so they don’t convert to exploitation, is the consultations. So through the consultations the resistance starts to be united more and more. And the resistance is not longer concentrated in San Miguel Ixtahuacán and Sipacapa, but it grows. It grows to 12 municipalities in San Marcos, and it expands into Huehuetenango, and it expands into Retalhuleu, and it expands into Totonicapán. [...] So the resistance grows, coalescing into CPO. From 2003 to 2013, the growth of the resistance has been around CPO. The resistance is strong, and not only locally like it was initially in San Miguel Ixtahuacán and Sipacapa. Thanks to the diffusion of information, the resistance grows up to the coalescence of CPO” (Teresa Fuentes, COPAE, interview).

One of the most astonishing factors has been the gradual increase of geographical extensity and intensity of community consultations as strategy. As of data from 2011, a total of 61 community consultations have been held in Guatemala on topics ranging from mining, hydroelectric power and the establishment of oil and cement installations. Mining related issues have dominated the community consultations, with 53 community consultations concerned mining (SNDP, 2011). Data from a Madre Selva<sup>31</sup> demonstrates that of its tallied 59 consultations in their report, a total of 3155 voted *in favour* for the proposed project (dam, expansion of a mine, cement factory or the establishment of a min) while 672,742 voted *against*. This is a 99,5% rejection of proposed project.

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<sup>31</sup> [http://madreselva.org.gt/wp-content/uploads/2011/12/CONSULTASintegrado.final\\_.pdf](http://madreselva.org.gt/wp-content/uploads/2011/12/CONSULTASintegrado.final_.pdf) Accessed 05.10.13



**Figure 4** Chart showing the number of consultations held each year. *Author:* Per Ernesto Øveraas. *Source:* [http://madreselva.org.gt/wp-content/uploads/2011/12/CONSULTASintegrado.final\\_.pdf](http://madreselva.org.gt/wp-content/uploads/2011/12/CONSULTASintegrado.final_.pdf)

As figure 5 and 6 show, the Western Highlands have witnessed a steady increase in community consultations each year after the influential community consultations in Sipacapa in June 2005. The number of community consultations held each year reached a peak in 2008 and then gradually decreased. I attribute the decrease in yearly held consultation to the finite number of communities and municipalities where community consultations can be held. Many of the consultations' results have been delivered to Congress as a symbolic protest and to give media attention to the communities and their claims and grievances (Yagenova, 2007). As Della Porta & Diani (2006) state, tactics need to meet media criteria of 'newsworthiness', and the sight of indigenous people wearing their traditional garbs handing over consultation results to *Ladino*, business-dressed bureaucrats is a discursively potent image of the socio-economic situation of Guatemala.

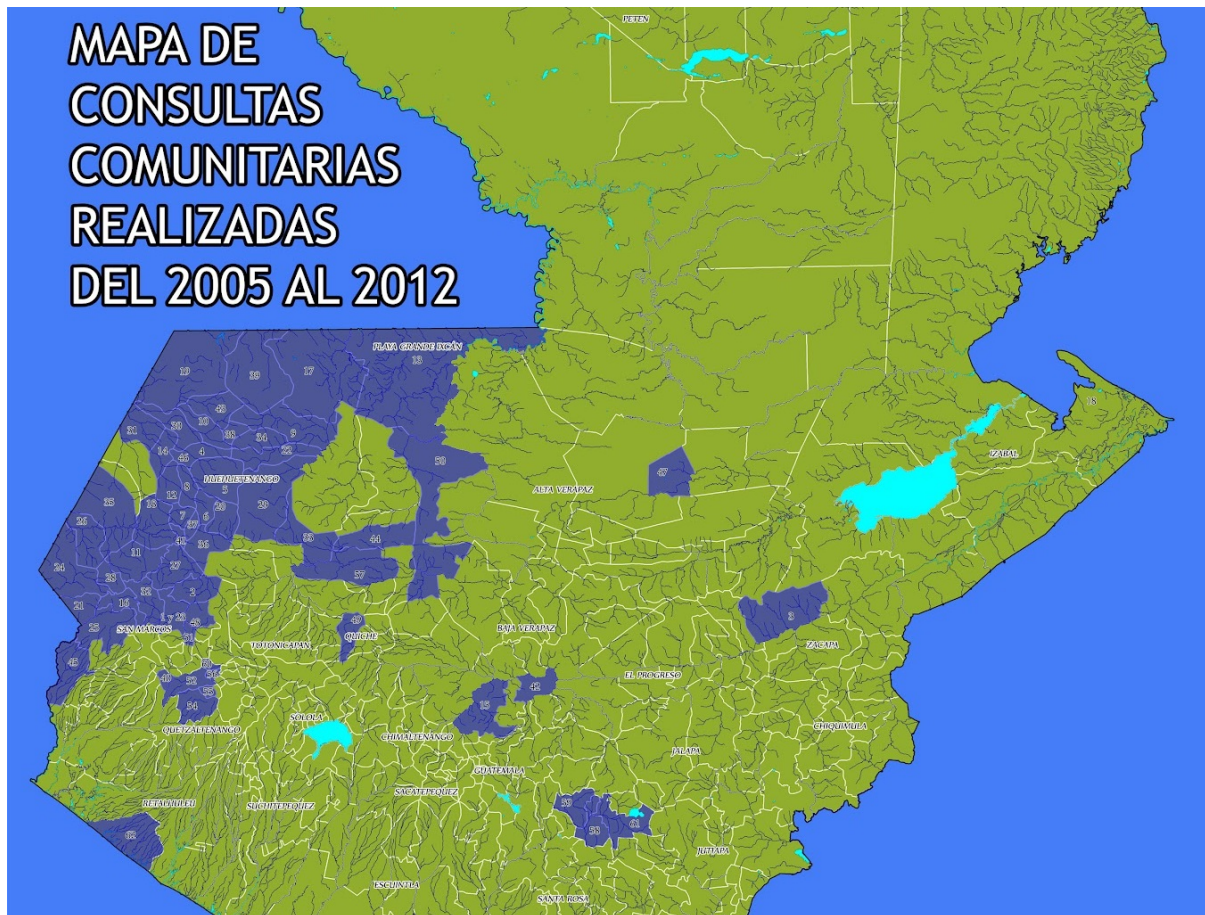


Figure 5. Map of community consultations held during 2005-2012.  
 From <http://resistenciadlp.webcindario.com>

Through the use of community consultations 61 communities have declared their territories as ‘*Territorio Libre de la Minería*’, or ‘territory free of mining’ (Roberto Marani, COPAE, interview). This push towards community consultations has been backed and aided by a wide range of local and national organizations, such as CPO, COPAE, the dioceses of San Marcos, La Convergencia Maya Waqib’ Kej, La Coordinadora Nacional de Viudas de Guatemala, El movimiento de Jóvenes Maya, El Consejo de Organizaciones Maya de Guatemala, La coordinadora Nacional Indígena y Campesina, La Fundación Rigoberta Menchú Tum, la Asociación de Abogados Mayas de Guatemala, among others. SNDP (2011, p. 1) explicitly states in a report that that the community consultation is to “*form part of a political strategy of indigenous and environmental organization that has gained strength since 2005*”. CPO, an indigenous organization that has become a major platform for coordinating resistance, states this their “Political Project” regarding the community consultation;

“The strategy of CPO to strengthen the defence of territory of the indigenous peoples and the natural resources, has led us since 2005 to retake the notion and practice of Previous Consultation to the communities, supported by international treaties” (CPO, 2012, p. 19).

This level of support by a multitude of civil society organizations represents an expression of the legitimacy the consultations hold, and the support it enjoys amongst members of such organizations. It can also be an expression of the beginning of the institutionalization of the community consultation as a repertoire of resistance. As the disruptive phase of the anti-mining movement subsided, the community consultation became more common and well-known. This tactical change is the result of interaction between the anti-mining movement the authorities. The lack of substantial political gains and the level of repression on the old repertoire transformed the repertoire of resistance, and this transformation has led to the institutionalization of the community consultation. It has been crystallized into convention and become well-known and expected.

There was in 2009-2010 an attempt to hold community consultations on mining in San Miguel Ixtahuacán. However, due to the complexity of the situation and the mine's yearlong influence, the consultations were eventually suspended. To Teresa Fuentes (COPAE, interview), the lack of community consultation in San Miguel Ixtahuacán has resulted in a weak and ineffective resistance, which is correlated to Montana's physical size in the municipality of San Miguel Ixtahuacán. This is contrasted to Sipacapa, which had a community consultation, and rejected an expansion of the mine into Sipacapas territory.

### **7.4.3 Resonance with Maya identity**

A major explanation for the success and the widespread adoption of the community consultation as a primary repertoire in anti-mining resistance, is that it resonates with the beliefs, ideas and cultural frames of the indigenous communities of the Western Highlands. As Della Porta & Diani (2006) specified, repertoires that are considered successful and well-adapted to a movement's culture and context will transfer more easily from movement to movement. To the indigenous communities, community consultations are considered an ancestral political exercise in the decision-making process, fitting within the Mayan *cosmovisión* (CPO, 2012). The consultations have therefore been reconstructed in terms of identity, which may be why Anonymous 1 (interview) describes anti-mining resistance as 'cultural activism', and that the community consultation constitutes part of '*rescate de identidad*' or the recovery of identity. To Anonymous 1 (interview) the capitalist model is not in compliance with the Mayan *cosmovisión*, and that the defence of territory is a source of pride. The consultations can therefore be seen as constructing indigenous identity as a source of power, influencing grievances and repertoires. Values that are rooted in the Maya



*cosmovisión* (protection of nature, respect of the elderly and solidarity) give to a certain extent advice on how to interpret the world. To the indigenous organization *Coalición Pa Q'uch*, ILO169 has created a 'space' that can enable the goal of (re)constructing traditional authority structures. This is because ILO169,

“recognizes rights, such as equity, and equality between indigenous and non-indigenous; eliminates socio economic differences, protects the right to values and social, cultural, religious and spiritual practices. ILO169 impulses the respect of authorities, institutions and forms of social organization of the they indigenous communities” (*Coalición Pa Q'uch, Year missing*, p. 4).

In (re)creating traditional authority structures, *Coalición Pa Q'uch* advocates utilizing community consultation as 'the appropriate organ of the Maya community', resembling government structure to represent Maya community on important decisions. It would be made up of representatives from Maya organizations, and work within a Maya *cosmovisión*, being a reflection of 'our Mayan actors and our Mayan hearts' (*Coalición Pa Q'uch, year missing*). This resonance with Maya *cosmovisión*, I argue, enabled the geographic spread of the consultations, and therefore the geographic spread and intensification of anti-mining resistance.

The main principle in ILO169 of cultural contextuality and sensitivity has been central to this process. Article 7 of ILO169 states that indigenous peoples have the right to,

“decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control over their economic, social and cultural development”<sup>32</sup>.

As a result, ILO169 allows an indigenous (re)construction of the community consultation, which has been evident in the Western Highlands. United Nations Special Rapporteur on the rights of indigenous peoples James Anaya (2007 in van der Sandt, 2009) explained that the consultations cannot be reduced to a concrete solution or formula, but depend on the diversity of indigenous peoples, which makes it impossible to prescribe *how* or *when* consultations should be conducted. Political scientist Iván Castillo Méndez (2009, in van der Sandt, 2009) demonstrated this principle of contextuality, pointing to the fact that several consultations deviated from articles 63 and 64 of the Municipal Code to include more traditional elements in the voting process. Children older than seven years and men and women without identity

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<sup>32</sup> <http://www.ilo.org/indigenous/Conventions/no169/lang--en/index.htm> Accessed 14.08.13

papers were permitted to participate, which community leaders legitimated on grounds that ILO169 recognises the right to practice own forms of government. Another fact was that COCODES, village development councils, organized the consultations, and not political parties, which are influenced by political interest and local political bosses. Furthermore, the process leading up to the consultations were made decided by consensus, which is evocative of traditional and indigenous consensus-based model of decision-making (Castillo 2009, in van der Sandt, 2009). This is because Mayan law resolves conflicts through deliberation and consensus-making, rather than conventional binding decisions. Its rules are generally flexible and dynamic.<sup>33</sup> Castillo therefore interprets the consultations as a recuperation of ‘community’ in a traditional and inclusive way, and to constitute a victory against state-imposed, fragmenting forces.

#### **7.4.4 Scale**

The community consultation repertoires are scalar in nature, integrating several levels of resistance, thus making the consultations a powerful tactic against mining and neoliberal development. It started as local resistance to local grievances connected to Marlin, but as the resistance was rearticulated, so were the grievances. The Marlin mine lost part of its significance to the resistance, but the *threat* of mining, and the prospect of neoliberal development, came centre stage. The community consultations allowed for resistance to be rescaled and rearticulated to encompass a larger geographical area. The resistance started in San Miguel Ixtahuacán and Sipacapa, but over the course of several years it grew to include major parts of the Guatemalan *Altiplano*. Also, a wider range of actors were incorporated in the movement at different scales. However, while the resistance has been rescaled upwards and rescaled to include more actors and different actors, the resistance is still grounded in the community. The community constitutes an essential element in the lives of indigenous people, and it is the scale where the threat of mining presents itself, and it is the level where resistance occurs (Urkidi, 2011). This is why they refer to themselves as ‘*comunidades en resistencia*’, ‘communities in resistance’ (Fernando García, COPAE, interview).

At the municipal scale, village developmental councils, or COCODES, have constituted the main organizing force behind anti-mining resistance and to the community consultations.

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<sup>33</sup> [http://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@normes/documents/event/wcms\\_084059.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@normes/documents/event/wcms_084059.pdf)

Accessed 15.08.13

They have been the actors who knew the problems and the subjects, and that had the ability to mobilize the community. Municipal mayors and indigenous leaders have also been central in organizing the consultations, although the depth and scope of their involvement has varied from aiding financially to actively participating (Rasch, 2012) - to cooperating with the mining company, as was evident in San Miguel Ixtahuacán (van de Sandt, 2009; Teresa Fuentes, COPAE, interview). Many municipal mayors were sceptical to actively participate in community consultations as they felt they would be caught between the interests of national government and of municipal interests. Several mayors that participated and supported the community consultations experienced indirect punishment by the national government withholding funds to construct roads, or they were summoned to the capital to justify their involvement (Rasch, 2012). The Catholic Church, a powerful and well-organized organization, also played an important role in the development of anti-mining resistance and community consultations. Using the lens of liberation theology, the Church has played a discursively important role, placing a sharp contradiction to neoliberal development. They have also provided significant logistical and organizational assistance to the community consultation (Holden & Jacobsen, 2009). While the church is primarily grounded on the local congregations, the Catholic Church is a multiscale organization operating at many intersecting levels. Bishop Ramazzini of San Marcos became a very important figure in anti-mining resistance establishing networks of alliances within and between organizations and communities (Dr. Yuri Melini, CALAS, interview). Ramazzini believes the consultations are absolutely necessary before any mining projects can proceed (Holden & Jacobsen, 2009). In Sipacapa ACAS and Rex Ulex played important roles, particularly in providing development alternatives to mining after the Sipacapa consultations were held. In San Miguel Ixtahuacán ADISMI played an important role in organizing initial resistance to Marlin. (Fausto Valiente, ACAS, interview; Anonymous 1, interview).

At the regional scale, CPO became a regional platform for coordinating resistance against mining and other megaprojects, integrating dozens of organizations from six departments. CPO uses a discourse grounded in identity politics and indigenous rights, affirming alternative, anti-neoliberal and multicultural models of development. CPO operates with a sceptical position on dialogue and cooperation with the central government, describing the government as 'weak', 'bankrupt' and 'corrupt' (van de Sandt, 2009). COPAE, a San Marcos-based organization attached to the Diocese of San Marcos, has also developed into an influential organization providing technical, legal and logistical assistance to organizations

and communities in resistance. COPAE has held workshops on mining, spread information on mining, held capacity building seminars and press conferences. CPO and COPAE have a tight connection, up to the point that COPAE is described as CPO's technical division. COPAE has also authored several reports regarding Marlin's social and environmental impacts (water quality and living standards near the mine), and COPAE has also established its own water quality laboratory to provide alternative measurements to Montana's monitoring (which has been contested by COPAE). COPAE has also played an important role in organizing community consultations in the Western Highlands (Roberto Marani, COPAE, interview; Fernando García, COPAE, interview). Other major regional organizations include the environmental organization CEIBA, CEDFOD, an academic activist research centre whose researchers have participated in community consultations (Rasch, 2012).

At the national scale, organizations such as CALAS, La Plataforma Holandesa, Madre Selva have provided much technical assistance on a variety of issues, such as environmental monitoring, water quality monitoring (Anabella Sibráin, Plataforma Holandesa, interview) and legal assistance (Dr. Yuri Melini, CALAS, interview). National organizations were paramount to the diffusion of vital information on mining in the early stages of anti-mining resistance in Sipacapa and San Miguel Ixtahuacán. National organizations have nonetheless played a minor direct role in organizing and holding community consultations, leaving that part of the process to local and regional organizations. National organizations have primarily been involved on issues that are more prevalent and pertinent at the national scale, such as legal reform or influencing elites (i.e. CALAS challenging the legality of the Mining Law of '97). Dr. Yuri Melini (CALAS, interview) takes a critical stance on national educational institutes, such as the University of San Carlos. He argues they have played a relatively limited role in the mining controversy, and they have failed to produce conclusive scientific reports.

The international scale has accounted for a considerable amount of power for the anti-mining movement despite the resistance's regional (and local) rooting. The most visible example of the international scale is the community consultation itself, as it demonstrates how local communities have adopted an international convention to address local grievances. The anti-mining movement has drawn on the discursive power and authority of an international treaty, framing their demands in terms of international human rights, which makes it more difficult for the state to ignore or reject them (Fulmer, 2010). While a complete account of all

transnational activity on anti-mining resistance is out of the bounds of this thesis, international NGOs have undoubtedly played an influential role in different ways (e.g. Fulmer, Godoy & Neff, 2008; Holden & Jacobson, 2008; Rasch, 2012; Urkidi, 2011; van de Sandt, 2009; Yagenova, Donis & Castillo, 2012). International actors have provided assistance by financial funding, technical assistance or by carrying out investigations. To Holden & Jacobsen (2008) international actors have diffused information on mining impacts to local communities. These communities have used this information to perceive how mining would manifest itself in their own territories. This has led the anti-mining movement to link with other mining affected communities (Holden & Jacobson, 2008). The proliferation of new channels of communication, such as cellular phones, e-mail and Internet, has enabled a local conflict to be communicated to other scales. As with national organizations, international organizations have played a limited role in directly organizing and holding community consultation, leaving local and regional organizations to that process. International organizations in the consultative process have limited themselves to monitoring and providing indirect assistance to organizations directly involved in the process.

What does this multiscale strategy signify? The rescaled anti-mining resistance has through the community consultation drawn on power from a myriad of actors and sources at different scales. Drawing on Cox's (1998) concept of spaces of dependence and spaces of engagement, the anti-mining movement has constructed networks at different scales to secure the conditions through which local interests and identities can be realized. In other words, to secure the local interests of indigenous communities, i.e. clean water, self-determination and social cohesion, which constitute the *spaces of dependence*, the anti-mining movement has through the community consultations connected with other localities and other scales to maintain and continues everyday life. Place-oriented actions and decisions have relied upon extra-local integration, and processes that have stretched the spatial and organizational reach of the anti-mining movement, i.e. it has widened the *space of engagement*. What started as community consultations in one municipality turned into over 61 community consultations, encompassing a much larger area of the Western Highlands. A variety of organizations operating at different scales have been linked together through the consultations and the geographical and social reach of the anti-mining movement has in turn been enlarged. The mere fact that I, a Norwegian student, have written about this conflict from Oslo, demonstrates the scalar character of the community consultations.

## **8 WHAT HAS BEEN ACHIEVED?**

The community consultations have been very successful in organizing and mobilizing a major movement in opposition to mining and other megaprojects. It has become a major source of authority and legitimacy, proving effective at challenging the logic of neoliberal development. The increase from the first consultation in Sipacapa in 2005 to 61 consultations since 2011, demonstrates that community consultations have become the preferred repertoire against mining. However, has the repertoire achieved its goal of halting mining in their territories? What kind of outcome have the consultations had? I have not come across an investigation that explicitly deals with the outcome of the community consultations as anti-mining resistance. The literature is focused on the novelty and the dynamics of resistance, rather than its impact.

Measuring impact is however a particularly challenging exercise. Research on social movements has tended to address the emergence and organization of collective action, more than outcomes and consequences. It is also difficult to establish a causal link between collective action and change in society due to a myriad of factors that may have influenced the outcome. And furthermore, there exists no agreed-upon conceptualization of success in collective action. Even the notions of success and failure are problematic because they overstates the intentions of movement members. Such bi-polar thinking excludes political by-products that are outside the aim of the movement (Glavin, Stokke & Wiig, 2012). However, I leave this on-going debate of outcome and consequence, and choose to focus on what informants (and other actors) interpret has happened, and what the consultations represents to them, and how they construct them.

### **8.1 Consolidation of the movement**

A major theme among the informants in the Western Highlands was that the community consultation enabled the creation of an inclusive and well-organized multiscale movement. Fernando García (COPAE, interview) described the early resistance as characterised by fragmentation and individualization, with each community resisting in its own way. There was a lack of authority and unifying figures that could coordinate resistance over a wider area. With the introduction of community consultations as the main repertoire, the resistance

was to a much greater degree unified and consolidated. Organizations such as COPAE and CPO have played important roles in this process. Also, a major outcome of the better-coordinated resistance was the *'articulación política'* or the establishment of a political platform (Roberto Marani, COPAE, interview), which CPO describes as

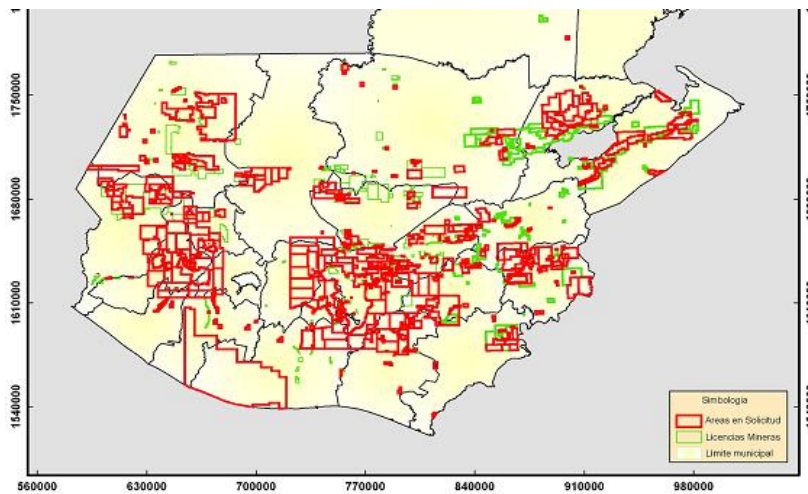
“a system of social, economic, political and cultural inter-relationships. To establish this, policy and strategies need to be created, with possible alternative methods and instruments, that permit the access and exercise of power from our knowledge, codes and accumulated practices, being aware of the dominant culture and its mechanisms of perpetuation” (CPO, 2012 p. 5).

This process of political *'articulación'* has been vital for the anti-mining movement. As the movement to a large degree consolidates itself as a regional and mature movement, its goals have changed. As Fernando García (COPAE, interview) explained, the movement was naïve to think it could stop the Marlin mine. The movement consequently changed its strategies and goals, to match equally important goals. The fight for closure of the Marlin mine is now abandoned (while still a very controversial topic among communities of the Western Highlands), and the anti-mining resistance has refocused more of its attention to the threat of mining, the granting of mining licences, and the broader threat of neoliberal development.

## **8.2 Prevented the spread of mining**

The second theme emphasized by the civil society in the Western Highlands is that the community consultations hindered a geographic spread of mining activity in the Western Highlands (Fernando García, COPAE, interview; Teresa Fuentes COPAE, interview; Anonymous 3, interview). There are roughly two different views on the effect of the consultation on the geographic extent of mining in the Western Highlands, with the civil society informants posing a contrasting view to Fulmer (2010). Both parties agree that the consultations have constituted an important strategy. Fulmer (2010) however argues that ILO169 and the consultations have played a much greater symbolic and discursive role, than a strategy for producing 'real' outcome. It is essentially a discursive strategy for acquiring authority and legitimacy. Fulmer (2010) justifies this by arguing the community consultations have few legal 'victories', and the few cases that have reached national or international courts have produced limited and ambiguous rulings. While I argue that the Fulmer (2010) is factually and technically correct based on a strict interpretation of 'victory', I also argue that Fulmer's narrow definition of outcome excludes what I believe is a tangible outcome, namely

the fact that there are no new mines in the Western Highlands. I thus argue that Fulmer (2010) overstates the goals of the anti-mining movement, preconditioning a ‘victory’ to be the closure of the Marlin mine. However, actors of the Western Highlands credit the community consultation with hindering the geographic spread of mining, in addition to its discursive and symbolic importance. The community consultation is directly credited to the lack of any new mining activity in the Western Highlands. MEM’s 108 active licences and 350 licences in process<sup>34</sup> point to a boom in mining, supported by MEM and a pro-mining government, as figure six demonstrates.



**Figure 6. Map showing the location of granted licences and licences in process as of 2009. Red are licences under process, green are granted licences. Source: <http://resistenciadlp.webcindario.com>**

However, despite the numerous licenses in the hands of mining companies, in a mineral-wise well-endowed country, supported by a pro-mining government and neoliberal international institutions, no new mines have been started in the Western Highlands. MEM has awarded 33 exploitation licenses to mining companies, yet there has been no new mining activity in the Western Highlands. Even Montana’s expansion tactic of offering to pay individual landowners for their land and the €100,000 ‘gift’ to the municipality of Sipacapa were turned down by the communities (Fernando García, COPAE, interview). The civil society and communities in resistance explicitly attribute the halt of new mining activity to the development of the community consultations in the Western Highlands:

“If they had completed that original program we’d have a bunch of mines in Guatemala. But it hasn’t been achieved. And why hasn’t it been achieved? Because of the community consultation-based resistance. And the only place where there is exploitation right now is

<sup>34</sup> <http://www.mem.gob.gt/viceministerio-de-mineria-e-hidrocarburos-2/estadisticas-mineras/> Accessed 26.07.13



where there weren't consultations<sup>35</sup>. So you say to yourself; ah, the consultation has worked. But in San Miguel they can't get rid of the mine. That's because they haven't held their own consultation. That's the case. But Comintancillo that held their consultation has no mining. Sipacapa that held their consultations to this day has no mining. There are plans to expand the mine, and that will depend on the population of Sipacapa if they maintain that decision or not. Concepción Tutuapa said no, there's no mining. Tacaná said no, there's no mining. And in Tacaná they have tried three times. So I think the community consultations have worked" (Fernando García, COPAE, interview).

While it is difficult to pinpoint the exact mechanism functioning between the community consultations and the lack of new mining activity, it is a probable outcome that the community consultations have altered the pattern of risk/reward, driving firms to re-evaluate the Western Highlands as a destination of mining FDI.

### **8.3 Strengthened communities and recuperation of community as subject**

Through anti-mining resistance, the community consultations have recuperated the community–subject as the main protagonist in the struggle against mining. The community is an important organization structure for several reasons, according to Urkidi (2011). It is the scale that experiences the material impacts of mining, it is the place of Maya cultural resistance and it has been historically marginalized. The historical context of the community–subject is indeed important, as centuries of economic, political and social dispossessions, combined with the present neoliberal character of the state, have weakened the community–subject. To Garcia (2011) this has been a deliberate strategy of undermining indigenous collective action.

The defence of community has not been an objective by and of itself, but part of a strategy to resist mining, according to Urkidi (2011). While the anti-mining movement is multiscalar and networked, its discourse focuses on the community. This is because the resistance is grounded in the community, it is where the people live and where the people resist. Therefore the community becomes more than the defence of a specific locale. The community symbolizes a wider sector of the population that has been historically oppressed and

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<sup>35</sup> Fernando García (COPAE, interview) refers to the lack of consultations *prior* to the establishment of the mine in San Miguel Ixtahuacán and Sipacapa.

marginalized. The defence of community is therefore a symbolic defence of the oppressed community (Urkidi, 2011).

The term '*community*' consultation gives the process more semantic meaning, indicating a communal way of thinking, despite the regional nature of the resistance:

“Here it’s a community decision, to say, we come together as a community, we take a unitary decision, and that can take one day, 15 days or a year. A decision is made such, and as a community we say. That’s what’s significant about the consultations here.[...] That’s why the consultations works as an organizational force for the community. Because it’s not a decision that Juanito or Jaimesito takes. No, the community takes it” (Fernando García, COPAE, interview).

This demonstrates how resistance is grounded in the community. While the resistance might be regional, the community constitutes the *space of dependence* that is worth defending. Through anti-mining resistance, the community consultations have created links between communities that not long ago were separated by language, culture and geography.

The community subject is also increasingly becoming a more important source of governance. As was previously mentioned, several municipal mayors that respected the results of community consultations were penalized for their acts, acts of political intimidation which forced municipal governance to be indifferent to mining issues. This has in been an important topic in the anti-mining resistance;

“At the level of the West, I can tell you that communities are resisting through the municipality. This is because people now vote according to what the politicians say during the campaign. Because now we have forums, before we had election. If they want to hold a forum, the first question will be “what are you going to be doing about mining”, and based in that question the candidates respond, and the people vote in favour of the candidate that has the approach to mining they agree on. This type of resistance was co-opted before. So the resistance is transforming itself in working with the municipalities in order to shield municipalities that make agreements that respect the community consultation” (Teresa Fuentes, COPAE, interview).

This can be interpreted as a (re)construction of the community as a governance structure characterized by self-determination and decentralisation, allowing communities increasing levels of self-governance. Castillo considers this to constitute a recuperation of the community-subject (Castillo, 2009 in van der Sandt, 2009,

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## 8.4 As a discursive tool

Drawing on the power and legitimacy of an international treaty has been an effective way to draw attention to their claims of the anti-mining resistance. For Fulmer (2010) the real strength of the community consultation lies in its discursive power, as a symbolic tool for drawing attention to the problems affecting the communities. As we mentioned earlier, the civil society attributes the consultative process more credit for producing tangible and material outcomes, such as strengthening the communities-subject and stopping the spread of mining. Fulmer (2010) on the other hand argues the anti-mining movement uses ILO169 more as a discursive way to legitimate grievances, as a way to draw attention to their cause. The effects of the community consultations have been limited, and at best mixed. Fulmer points to the lack of legal victories in court, or that it has not been able to compel the closure of Marlin or bring about any substantive change to the way Montana operates or how the state handles mining. As Fulmer argues, and concludes;

“[...] the importance of law stems more from authority and legitimacy that law confers and from its ability to strengthen political actors who frame their claim in terms of international law, and less from law’s ability to compel a change in state behaviour or institutions, directly or indirectly. In the case of ILO169 and consultations, the *form* of the norm of consultation (an international treaty that activists can invoke) has thus been more significant than the *content* of the law (a vague procedural requirement), and more important than the institutional context (weak to non-existent)” (Fulmer 2010, p. 21).

Fulmer’s point that using ILO169 (international law) as a rhetorical resource is as important as using the law as a formal judicial resource. The discursive power of the community consultations is however not lost with the anti-mining movement. Anonymous 3 (interview) explained that the central government has no choice but to adhere to the community consultations’ results, on grounds that it is what the people collectively have decided. “*Es la ley*”, it is the law.

## 8.5 As spaces of democratic participation

The community consultations have also created new *spaces of participation*, influenced by liberal and community-based notions of democracy (Rasch, 2012). By way of holding bottom-up community-led community consultation, the historically marginalized Maya populations have carved out new spaces of politics where they can channel grievances and contest mining. To Fernando García, (COPAE, interview) the lack of indigenous political representation at the national level directly affects the indigenous people's ability to press claims at the national scale, the locus of decision-making power on natural resource management.

“Officially, 70% of the population identify themselves as indigenous. How many indigenous are there in congress? Six. Six out of 158. I mean damn, where is the representation? The system is that rotten that no indigenous party exists” (Fernando García, COPAE, interview).

The lack of indigenous representation is a structural problem preventing indigenous claims and grievances from being resolved at the relevant scale. The consultations must therefore be understood in relation to the contemporary detrimental political representation of indigenous peoples, and the historical marginalization of the Maya peoples.

Firstly, centuries of historical dispossessions have led to the structural political marginalization and exclusion of the Maya population. Exacerbated by ethnic tensions between Mayans and *Ladinos*, the level of attention given to ethnic minority rights has been low. Fernando García, (COPAE, interview) explains that non-indigenous issues have been given more funding and public attention. Public security has in particular been a key to the electoral victory of president Otto Pérez Molina, championing during his campaign a ‘*mano dura*’ (firm hand) approach to crime<sup>36</sup>. There is however concern that Pérez Molina, an ex-military officer who took part in the civil war and is alleged to have committed war crimes<sup>37</sup>, is resurrecting patterns of militarization in the campaign against crime and drug trafficking not seen since the civil war (Fernando García, COPAE, interview). The lack of implementing the numerous reforms stipulated by the Peace Accords of 1996 is also hindering efforts to address the issue of uneven political participation. There was an attempt to address certain

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<sup>36</sup> <http://latino.foxnews.com/latino/news/2012/01/14/will-otto-perez-molinas-past-affect-guatemalas-future/>  
Accessed 23.07.13

<sup>37</sup> [http://www.huffingtonpost.com/2013/04/05/efrain-rios-montt-trial\\_n\\_3020052.html?](http://www.huffingtonpost.com/2013/04/05/efrain-rios-montt-trial_n_3020052.html?) Accessed 23.07.13

issues in 1999 when a popular referendum was held on 47 constitutional reforms, which addressed fundamental issues of multiculturalism, basic social rights and reforms to the executive, legislative and juridical branches. The referendum was however rejected by the mere 18,5% of registered voters that participated. The government was criticised for not providing enough information, both on the complexity and importance of the referendum, but also for not making information available in indigenous languages (Muj García, 2012). The lack of implementation leads Fernando García (COPAE, interview) to call the peace process a ‘fictitious peace process’ and that Guatemala is “structurally, sociologically, historically and physically exactly the same as in the armed conflict. So nothing has changed, and so the [indigenous] population are still pissed, still fucked and still screwed”. Because Guatemala has failed to address these important issues, even the Guatemalan constitution fails to recognize the ethnic diversity of the nation. Nor does it have formal laws or policies, such as electoral quotas in its political parties or reserved seats in Congress, to promote political indigenous representation (Muj García, 2012).

Secondly, the proliferation of community consultations can be connected to the lack of public services in the Western Highlands. Many communities are considered forgotten by the central authorities, lacking fundamental public services and benefits;

“[...] San Miguel Ixtahuacán and Sipacapa have been forgotten municipalities in Guatemala. They are far away and there’s much poverty. They don’t even have a hospital. To get to a hospital they have to ride three hours on bus. They thus prefer to stay home and use traditional medicine. Guatemala hasn’t interested itself in the municipalities, because they’re far away. [...] They’re forgotten territories” (Teresa Fuentes, COPAE, interview).

The lack of basic social provisions and services, such as education, healthcare and infrastructure reproduce the conditions of political and social exclusion, which disproportionally affect the indigenous communities. In the absence of public services and political representation, the indigenous communities carried out a consultation process that is in practice the states’ responsibility. It can be understood as a response to the lack of political representation on the national scale, and to the sociological processes of marginalization.

The community consultations are accordingly a way to reclaim legal participation rights of communities and the democratization of decision-making processes. It is a response to the vertical and unfair structure of the national government, as well as the community institutions and traditional leftist social movements. The community consultations can therefore be

interpreted as a response to the limits of democracy in formal Guatemalan politics. With traditional representative political channels being out of reach to a large portion of the population, ILO169 has created a space for exercising bottom-up politics. They have been a hugely successful exercise in participatory democracy, informed by liberal and community-based notions of democracy (Rasch, 2012). As Anonymous 2 (interview) explained; “They have no choice but to listen to us now. [...] Through the consultations our voices can be heard.”

## 9 LIMITATIONS TO THE CONSULTATION AS RESISTANCE

The community consultation repertoire is attributed to generating a variety of positive outcomes in the Western Highlands. This indicates that the consultation repertoire is considerably more effective at channelling grievances and influencing elites than the early repertoire of disturbance, violence and a certain types of contained action. However, as with all repertoires, the community consultations have certain limitations. Some limitations are inherent in the consultative process itself, while most limitations are found in the institutional context around the consultations, such as laws and institutions, which are weak in Guatemala. The discussion of repertoires limitations alludes to resource mobilization theory and the political process approach, which focuses on how external factors affect collective action and its impacts. The limitations can in lieu of RMT and the political process approach be understood as constituting constraints on the anti-mining movement, which can affect the movement's ability to effectively channel grievances and affect elites. These limitations raise important questions on the impact of the consultations results, as well as the durability and longevity of the consultation results. To this day, no new extraction projects have been established in the Western Highlands, but this is likely to change. One day a mining company will, with the encouragement and protection of the government, perceive the relative political, economical and social risks low enough to start extraction in a municipality proclaimed '*Territorio Libre de la Minería*', or 'territory free of mining'. This hypothetical future scenario will constitute a major challenge to the community consultations and the anti-mining movement.

The limitations of the community consultations indicate a need to widen the repertoire of resistance. More tactics and strategies are needed to complement the community consultations in order to maintain and/or augment the impact and durability of anti-mining resistance. The effects of CPO and COPAE have led to the diversification of resistance, with the '*articulación política*' and by utilizing legal instruments. One such example is COPAE and CPO challenging the entirety Mining Law of '97 as unconstitutional at the Constitutional Court. At the time of writing, the legal challenge is still under deliberation (Teresa Fuentes,

COPAE, interview; Roberto Marani, COPAE, interview). van der Sandt (2009) is furthermore critical to the dismissive position some organizations have to national political and legislative processes. I argue organizations of the Western Highlands would benefit from upscaling their political work to the national scale, pressing for the protection of collective rights of indigenous peoples. And furthermore, to make the anti-mining resistance ‘holistic’, the communities and civil society of the Western Highlands need to articulate a comprehensive plan for alternative development. This has to a certain extent been done on a small scale in Sipacapa with ACAS providing an agricultural development alternative to extractive economic development. For such alternatives to be sustainable in the long run it will have to be rooted in the Maya *cosmovisión*, and to be respected by and in cooperation with national authorities. Then can the movement achieve what Escobar (1999, p. 308) calls “the transformation of many of the practices of development and modernity about the envisioning and reconstruction of social orders, and perhaps alternative modernities or different modes of historicity”.

## 9.1 Regulatory constrains

One of the main obstacles confronting the community consultation is found in in the national institutional context, i.e. the state. As preciously established, the Guatemalan state has been out-liberalized even by neo-liberal standards, as Seligson (2009) poignantly states. It has been a historical process, a rational function of policy choice to constrain the size and capacity of government. This directly affects how mineral extraction is handled:

“The public administration of Guatemala has during the last 28 years, [...], particularly in the last decade of the last century, has been allowed to be dragged by market forces: it has been limited in developing public services to facilitate the processes to better the economic conditions” (Alonso Jiménez in Yagenova, Donis & Castillo 2012, p. 39).

To Yagenova, Donis & Castillo (2012) the regulatory context has enabled capitalist accumulation, constituting a constructed reflection of the interest of economic and political elites.

The regulatory framework on mining has gone though several revisions that have ultimately deregulated and stripped the bureaucracy of power, resulting in a ‘race to the bottom’ with other Central American countries to attract FDI in mining (Dougherty, 2011). These deregulatory processes have weakened the institutions in charge of regulating mineral



extraction, to the lament of the civil society in the Western Highlands, “There’s no control, no supervisory system, there’s absolutely nothing. This country is not prepared, nor politically, economically or judicially” (Fernando García, COPAE, interview). Dr. Yuri Melini (CALAS, interview) describes the regulatory body as weak and ineffectual due to a lack of sufficient staff and expertise, and they also lack the necessary funding to properly regulate mining. To exemplify the calculated nature of the deregulation and dismantling of regulatory power, Dr. Yuri Melini (CALAS, interview) mentions how the government of Otto Pérez Molina fired 240 employees from MARN when he entered office in 2012. Furthermore, the regulatory body also lacks a normative focus, specific protocols and guidelines for interpreting studies. This is furthermore compounded by an inherent political instability (Yagenova, Donis & Castillo, 2012), which is exemplified by the sacking of the 240 bureaucrats. According to Fernando García (COPAE, interview) and Teresa Fuentes (COPAE, interview), even the ministries are aware of some of their deficiencies; “MEM plainly said, ‘We don’t have the capacity to monitor the mine’. The Minister of Environments says, ‘We don’t have the capacity to environmentally supervise the mineral exploitation’, and they have 114 employees.” (Fernando García, COPAE, interview). The regulatory deficiency is furthermore compounded by different logics driving the ministries; MARN is tasked with promoting environmental conservation and protection, while MEM is tasked with promoting the extractive industries (Yagenova, Donis & Castillo, 2012).

Essentially the regulatory framework lacks any mechanisms or protocols that mediate the interests of private capital and the interest of the collective rights of indigenous people. To Szablowsky (2007 in Sieder 2011 p. 254) “the state support for mining development relies on a ‘strategy of selective absence’ whereby states effectively delegate the ‘responsibility for the social mediation of mining development’ to the mining companies”. According to Ekaterina Parilla (MEM, interview), only four people are tasked with working with dialogue and community participation in the entire sector that includes hydrocarbons, mining and energy. This ultimately leaves much social mediation responsibility to the mining company, creating a situation of conflict of interests.

To further complicate matters, Teresa Fuentes (COPAE, interview) explained that the government and the regulatory institutions in charge of mining are under intense pressure from economic interests, lobby groups, and in particular CACIF (the National Chamber of Commerce and Industry) to prevent any meaningful reform to legislation. For example, the Constitutional Court, which is to issue a ruling on COPAE’s legal challenge of the Mining

Law of '97, is under intense pressure from CACIF to dismiss it. The CACIF, which acts as a pressure group on behalf of a small number of historically wealthy families, has significantly restricted the powers of civilian government (Teresa Fuentes, COPAE, interview).

## **9.2 Ambiguity of the regulatory framework on consultations**

Another source of concern that affects the consultations is the ambiguous nature of the regulatory framework that regulates mining and the community consultations. This ambiguity was acknowledged by several informants (Ekaterina Parilla, MEM, interview; Dr. Yuri Melini, CALAS, interview; Fernando García, COPAE, interview), as well as covered by several academics (Fulmer, Godoy & Neff, 2008; Fulmer, 2010; Sieder, 2011). The main argument is that the framework regulating mining is inherently ambiguous and unclear, which causes confusion to the legality and durability of the community consultation results.

One major concern is the *ownership and responsibility* of subsoil resources as postulated by the Guatemalan constitution. Article 121 established national ownership of subsoil resources, and article 125 establishes national responsibility to exploit these resources in the public interest. At the same time, Guatemalan laws on decentralization and municipal autonomy permit local populations to conduct a consultation process if they deem it necessary. The constitution states that such referendums can be held on practically any issue that may concern a community, and the constitution establishes conditions in which the processes are binding. This contradiction between the Constitution and laws on decentralization and autonomy has created confusion and uncertainty as to the validity of consultations. In the Sipacapa consultations the communities contested that the consultations were compliant with the law and therefore binding, but MEM declared them legally irrelevant based on articles 121 and 125; exploitation of subsoil resources are beyond the jurisdiction of local communities. The contradiction goes even further. On the one hand the constitution establishes that subsoil resources are to be regulated by national authorities but in consultation with local development councils, or COCODES (Consejos Comunitarios de Desarrollo). However it also states that municipal autonomy is administrative, not absolute. The national authorities, the locus of politico-economic power, are in most cases accorded pre-eminence on the management and exploitation of subsoil resources. The contradiction between the laws has ultimately resulted in the cherry-picking of laws to what suits the state

best. This entails that the decision on whether consultations are legally binding rests on the body of laws which the states considers most convenient to cite (Fulmer, 2010).

As the Sipacapa consultations demonstrated, Guatemalan laws also has a contradiction in standards on participation involving indigenous groups. The Guatemalan Municipal Code establishes a 20% minimum voter participation of the registered electorate for the results to be valid and this binding. However, in the case of indigenous communities, it establishes a voter participation of 50% for a decision to be considered binding. In the case of the Sipacapa consultations the voter turnout was 45%, which resulted in a debate about the legality of the results (van der Sandt, 2009). The Sipacapa consultations demonstrated that the authorities cherry-picked the laws to their advantage, holding indigenous communities to a higher standard. As a consequence of increasing conflict, and the high stakes, the Constitutional Court made a ruling in 2006 in favour of the results, only to overturn that same ruling in 2007. It declared the consultations results legitimate (*válida*) but not binding (*no vinculante*). Article 121, national ownership of the subsoil, was the argument behind the ruling (van der Sandt, 2009). This ruling has most likely had a significant impact on the government's approach to the consultations, being the justification for dismissing the consultations as legally irrelevant.

The lack of clear codified directives or procedures on the community consultations are another source of uncertainty and confusion. Both ILO169 and national laws on local participation highlight the contextual nature of the consultations, that is to say they should be carried out by representative indigenous institutions in the particular standards or customs of the indigenous group (Fulmer, Godoy & Neff, 2008; van de Sandt, 2009). Codification of procedures and standards would thus reduce the contextual nature of the consultations, a main factor for its success. It becomes clear that the consultations possess an inner contradiction in this regard, a strength that is at the same time a weakness. On the one hand the contextual nature of the consultations make it a meaningful and successful democratic practice for indigenous communities. Indigenous communities can (re)construct the consultation according to their customs and traditions, empowering the consultations process. On the other hand, this also delegitimizes and weakens the community consultations *in the eyes of opponents*, essentially the decision-makers. To them the consultations do not adhere to stricter liberal democratic political norms, such as Western standards of secret balloting, (Fulmer, 2010). Indeed, the fact that children aged seven and up, and individuals without identity papers have participated have been described as a procedural weakness. Ekaterina

Parilla (MEM, interview) reflects this criticism, expressing concern that the consultations are manipulative and procedurally subjective;

“[...] I don't know if you have seen the consultation ballots. It says, “Yes to mining”, and they draw a snake. “No to mining”, and they draw a maize. So, visually they deceive you” (Ekaterina Parilla, MEM, interview).

This kind of dismissal is not unique to Guatemala, as state official in both Guatemala and Peru “[...] have tended to react angrily to community-led consultation process, denouncing them as illegal and illegitimate [...]” (Fulmer. 2010, p. 22). Fernando Garcia (COPAE, interview) on the other hand explains that the consultation process is arduous and meticulous, with much preparation leading up to the consultations themselves;

”And on the questions in the consultations... do we get 200-500 people, they raise their hand, we take the photo and leave? No, it's a process of months. Of attending meetings, of getting together, of workshops, of training, of making visits to forgotten villages. In fact, the consultation that took us the least time was I think in Huichima, and that took us about four months to prepare” (Fernando García, COPAE, interview).

The Sipacapa consultations serve to exemplify the meticulous nature of the consultative process. The local COCODES, under the supervision of the COMUDE were responsible for carrying out the consultations in each of the 13 communities. A technical committee, composed of representatives of the NGOs working in Sipacapa, was responsible for operational and methodological support with advisement from experts from other organizations (van de Sandt, 2009).

While Ekaterina Parilla's (MEM, interview) discourse falls short of calling the consultations directly illegal and illegitimate, her representation can be understood as a discursive way of delegitimization and undermining the consultations as a valid and binding decisions-making process. Throughout the interview with Ekaterina Parilla (MEM, interview) the consultation process was described as complicated, legally conflicting and thus problematic. The solution to the social conflict surrounding mining was not found in ILO169 or any form of community participation, but rather in technocratic solutions *external* to the consultations. Numerous solutions were mentioned, such as modifying the mining law of '97, or MEM working closer with mining companies on their social responsibility programs or changing the law to include the assessment of social consequences in the EIA. While such technocratic solutions are much needed and would address several shortcomings in the regulation of mining, they fail to

address deeper questions of indigenous involvement in resource management or equitable relationships between authorities, the company and indigenous populations. This selective representation of the community consultations raises interesting questions of how MEM views the community consultation, and what that entails in the long term.

Another major area of concern pertains to the textual vagueness of ILO169 itself, and what that entails.

“[...] the convention 169 is entirely fuzzy and is practically inapplicable. [...] The convention ultimately doesn't regulate the right to a “yes” or a “no”. It doesn't have the status of a referendum. The famous free and prior consent forming the consultation of good faith is a mechanism of dialogue and negotiation. In which the state has the final decision, not the indigenous people that are affected” (Dr. Yuri Melini, CALAS, interview).

This is a major reason why CALAS prefers ‘pragmatic and calculated’ legal action, exemplified by CALAS’ victory in the Constitutional Court against 7 articles of the mining law of ’97. Fulmer, Godoy & Neff (2008) reflect this concern explaining that “the text of the convention itself is vague, leaving wide swatch of its content open to interpretation” (Fulmer, Godoy & Neff, 2008, p. 103), in particular to *what* the consultation is and *how* it is to be performed. But as Anaya (2009 in van der Sandt, 2009) pointed out, this semantic vagueness is necessary to secure contextuality in the diversity of traditions and customs of indigenous communities.

The biggest obstacle is nonetheless the absence of a national law that regulates the consultations. According to ILO169, the fulfilment of ratifying the convention’s obligations falls on the state which must modify its laws. However, this never happened. “Guatemala doesn’t do it. [...] Guatemala never made a modification to its laws, and that’s why we’re still trying to make the convention executable. [...] Guatemala completely failed its obligations to modify its laws.” (Teresa Fuentes, COPAE, interview). This lack of implementations has led to a great deal of uncertainty to how ILO169 should be regarded, as superior, equal to or below the level of the constitution. It also remains unclear what national body should be the authority on proper implementation of ILO169 (van de Sandt, 2009). Fulmer, Godoy & Neff (2008) also mirror the concern that Guatemala’s lack of a national law on consultations detrimentally affect the community consultations. It has resulted in a legal vacuum on how mining companies and the state should seek approval from communities. This vacuum in laws regulating social mediation has, as previously mentioned,

“delegated the ‘responsibility for the social mediation of mining development’ to the mining companies” (Szablowsky, 2007 in Sieder, 2011, p. 254). This lack of protocols left Montana (then Glamis Gold) to unilaterally decide whom to consult, and how to consult, which resulted in incomplete community consultations that were widely criticised.

However, while criticizing the government for failing its obligation to implement the provisions of ILO169 into national law, Teresa Fuentes (COPAE, interview) also argues that the lack of implementation into national law is in itself not a problem:

“Because the convention 169 is self-enforcing. We don’t need regulation like president Alvaro Colom said during his time when he wanted to regulate the consultations, because the consultations were carried out badly or something. And that’s not true. The community consultation is done based on the tradition and customs of the Maya peoples. The convention 169 has a self-enforcing character, so we don’t need to be told how. Even the court has advanced in this regard, saying where, when and how we should consult. How? Through the consultation. Where? Where there are indigenous communities involved. Why? So the indigenous communities can participate. And furthermore, it’s not only participation, but also the consent of a project. When indigenous communities are involved in a problem, there has to be consent. Only participation is not enough, there has to be consent. [...]” (Teresa Fuentes, COPAE, interview).

Despite the legal argument that that ILO169 is self-enforcing, COPAE still considers the lack of national law on the consultations a source of worry. COPAE comprehends that without clear national laws on consultations, the state will declare national supremacy over local decision-making processes based on a non-implemented convention. This is part of the reason that CPO and COPAE have challenged the entirety of the Mining Law of ’97. They assert that the Mining Law was written and approved *after* the ratification of ILO169, that is to say despite having ratified ILO169 in 1996, Guatemala Congress wrote and approved a measure, the Mining Law, in 1997 without holding a community consultation, which ILO169 would have required.<sup>38</sup>

### **9.3 Contrasting and conflicting views on the consultation**

A major underlying challenge to the anti-mining movement is that there are contrasting interpretations on the community challenge, and each interpretation has influenced different

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<sup>38</sup> [http://copaeguatemala.org/Vista\\_Publica.html](http://copaeguatemala.org/Vista_Publica.html) Accessed 01.11.13

actors' responses on the community consultation-led repertoire. On the one side you find the communities in resistance and civil society organizations of the Western Highlands, and on the opposing you find the decision-makers, i.e. the government, bureaucracy and the economic elites.

The Ministry of Energy and Mine, the institution charged with regulating the community consultations, has historically taken a dismissive position to the consultations, up to the point that Fulmer, Godoy & Neff (2008, p. 105) interpret MEM's position on the consultations as 'irrelevant'. Nevertheless, Ekaterina Parilla (MEM, interview) considers the community consultations as a dialogue mechanism rather than a binding political decision;

“Because we see the consultations not as a paper that says *yes* or *no*. The consultations, we've had meetings with ILO, which is where the convention 169 comes from, that the consultation is a process, not an end. [...] Well, we believe that the consultation is not a *yes* or *no*. The consultation is precisely a process where communities connected to a development are involved in the development of certain types of industry in their territory. Why? To work out their doubts, so they take part of the development and so that they become auditors and that they socially audit the projects” (Ekaterina Parilla, MEM, interview).

“The decision to exploit the subsoil and the natural resources are the competency of the central state. So a municipality can't say 'we want this, we want that', because that legal framework is then lost” (Ekaterina Parilla, MEM, interview).

“[...] We don't see the consultation as a *yes* or a *no*, we see it as an inclusive, participatory and permanent process of information exchange in the territories where this type of industry is to be developed. It is likely that in other countries where ILO169 is applicable the territories are autonomous, but in the case of Guatemala its no like that, because were a unitary republic“ (Ekaterina Parilla, MEM, interview).

Based on these statements, Ekaterina Parilla (MEM, interview) unequivocally disempowers the community consultations as a binding decision-making process on natural resources. In essence, the community consultation is thus reduced to a mere bargaining tool in negotiation with the company or the state. The bottom line is that the national state has supremacy over such resources, and will decide its exploitation based on national interests. However, based on those same statements, I also argue that Fulmer, Godoy & Neff (2008) exaggerate MEM's absolute and unequivocal dismissal of the consultations. Granted, MEM ultimately cedes final decision power to institutions operating at the national scale, but give Ekaterina Parilla's (MEM, interview) statements, the community consultation is attributed certain positive

properties, namely the construction of dialogue, participation and consensus. Be that as it may, all these elements have nonetheless been absent from the mining conflict, regardless of any position MEM has on the consultations. These positive attributes assume that MEM and the government actually hold meaningful consultations in affected communities, which they have not done in any meaningful way.

This interpretation of ILO169 and the consultations stands in stark contrast to the anti-mining movement, which has in many ways framed its resistance on the consultations. Fernando García (COPAE, interview) argues that the results of the consultations are unequivocally binding;

[...] If the results is “yes”, then the project is taken forward. If it is a “no”, then negotiation tables are created; mechanisms of communications are created to convert that “no” into a “yes”. It should be that the people say “yes”, and it’s a “yes”. If the people say “no”, it’s a “no”. [...] It is “no”, it is a profound “no”. No, but yes. No, but maybe. It is a “No” now, but if the laws are changed, it’s converted into a “yes”. There have been community declarations that say “not 1%, or 5% or 50% or 100% royalty. We do not want mining. When that decision is made, and it is the people that make it, and it is a “no“, it is because a lot of people live in that municipality, and what happens when you establish a mine where half the people live? It is a "no" because this municipality is a water source for the whole department, and so it can be contaminated. It’s a no because we have fruit production and that can be put at risk. It is a no because we produce coffee, and a mine will seriously fuck our production of organic coffee. It is a *fundamental* no. It can’t be done! And Guatemala still argues “if we change the royalty, if we change public office, if we change...” There is no change. A “no” is a “no”. It can’t be done. Or we change country, or you create New Guatemala where it is a marvellous place, and we are all happy, or else mining cannot be done in this country” (Fernando García, COPAE, interview).

Furthermore, Ekaterina Parilla (MEM, interview) argues that the communities and the civil society may share some of the blame for the level of conflict. The argument is that the communities and the civil society of the Western Highlands have essentially neglected to carry out their jobs as watchdogs over the state and the rest of society, and neglecting to use existing legal tools to channel their grievances;

“Here [in Guatemala] we have large NGO’s with much experience. And I believe they are NGOs with well financing. So if a river is contaminated, make a formal complaint and conduct the investigation. And the truth is that MEM can close the mine, that is the law. But that never happens. So I meet up with people, and the people say to me ‘there is corruption,



there is contamination’, and have they made a formal complaint? No. [...] So the tools that communities can use to make their formal complaints exist, and with that it can be resolved” (Ekaterina Parilla, MEM, interview).

The assertion that organizations are well funded is dismissed by organizations in the anti-mining movement, which are to a high degree dependent on aid from foreign institutions and foreign organizations. COPAE, for instance, receives no funding from the Guatemalan state, and is fully dependent on ‘international partnership’. Also, it seems bizarre to assert that the civil society and anti-mining movement have neglected to use legal tools when on many occasions the Marlin mine and the legal context have been challenged at the national and international scale. van der Sandt (2010) has written a dedicated report on legal strategies on dealing with negative consequences of mining in Latin America.

Ekaterina Parilla (MEM, interview) also seems to employ a type of ‘developmental country’ discourse to justify Guatemala’s institutional shortcomings and its own actions on mining. Ekaterina Parilla (MEM, interview) alludes to the impoverished nature of Guatemala, describing how “we are not a perfect country, and we have much to improve on our laws and legal system”.

## 10 CONCLUDING REMARKS

Understanding collective action against mining is important. The continued growth of economies of China, India and elsewhere will sustain high demand and high prices for commodities and precious metals. This may induce geographical expansion of mining into previously inaccessible areas, such as indigenous territories. For example, Ecuador has recently approved oil extraction in previously untouched parts of Yasuni National Park in the Amazon rainforest, home to the Tagaeri and Taromenane indigenous communities.<sup>39</sup> Even the leftist governments of García (Peru), Morales (Bolivia) and Correa (Ecuador), countries with high percentages of ingenious peoples, are promoting a development model based on mineral extraction to enhance national economic growth (Bebbington, 2009). And as of October 2013, a new mine by Canadian company Tahoe Minerals has started exploitation in primarily non-indigenous southeastern Guatemala<sup>40</sup>. This mine has also caused much social conflict, and it remains to be seen how collective action will be constructed and how the repertoire of resistance will influence the situation. The expansion and intensification of mining are already causing significant social and environmental conflict throughout Latin America. The Database of Mining Conflicts in Latin America<sup>41</sup> currently tallies 161 mining conflicts affecting 212 communities in 17 countries in Latin America. This demonstrates the need for more knowledge and understanding on the relationships between mineral extraction, local and global context and affected communities.

In the case of mining in the Western Highlands in Guatemala, the Marlin mine has been highly controversial, causing significant negative environmental and social impacts on mine-adjacent communities, which has negatively impacted their livelihoods. The resistance that developed went through a significant learning process, where different repertoires were tried and tested to more effectively rally communities against mining and to influence elites. The community consultation repertoire has been highly successful in that regard. The scalar character of the consultations expanded the space of engagement to secure the local communities' space of dependence. The fact that the consultations resonated with the culture,

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<sup>39</sup> <http://www.bbc.co.uk/news/world-latin-america-23722204> Accessed 17.11.13

<sup>40</sup> <http://www.bnamericas.com/news/mining/tahoe-makes-first-shipment-from-escobal-silver-mine-in-guatemala> Accessed 18.11.13

<sup>41</sup> <http://www.olca.cl/ocmal/index.php> Accessed 17.11.13

beliefs and frames of meaning of communities in resistance made it well-suited, allowing the consultations to be (re)constructed according to local customs and traditions. The consultations enabled the development of a consolidated and well-organized movement, and also created spaces of democratic participation, which have strengthened the community-subject, i.e. the main protagonist in this conflict. I have concluded that this has contributed to the lack of new mining activity in the Western Highlands, where anti-mining resistance is consolidated and strong. This resistance was initially against a tangible mine, the Marlin mine, but as the resistance grew and intensified, it coalesced into a regional movement to oppose the threat of mining, or a mining-based development model. What is a locally rooted resistance is increasingly utilizing the international scale through various ways. While the consultations have led to a positive outcome as seen from the vantage point of the indigenous communities, complex questions remain unanswered: who decides what development is? Who is to benefit from development?

One of the main objectives for learning about the topic was in part normative, hoping the findings would be useful to the protagonists in this mining conflict. This objective still stands, however the value of this thesis may not necessarily be found in the conclusions as such, but rather how this thesis can be used to understand and provide solutions to similar social problems. I argue therefore that this thesis contributes to a theoretical framework for understanding social conflict arising out of mineral extraction in indigenous territories. Theory on mining as a dispossessive process rooted in a capitalist logic in a neoliberalized world gives structural explanations to why mining commonly spawns resistance from affected communities. Next, theory on indigenous identity give meaning to how culture, values and frames of meaning are interconnected with a movement and its repertoires, and to how they interpret and construct mining. This component has, I argue, been underplayed in analyses of mineral extraction in indigenous territories. And last, theories on social movements explain why movements develop and how movements act contentiously.

This thesis has, among other things, discussed how the anti-mining resistance draws on the authority and legitimacy of an international convention, ILO169, as well as support and assistance from the international community. However, the movement is increasingly using a global discourse to oppose the developmental model that mining represent, and this discourse combines many aspects; post-colonial relations, Maya identity and *cosmovisión*, alternative development, global justice, anti-globalization and self-determination. The resistance is not just against Marlin, but also a struggle against a 'global system', a diffuse supranational

order. This thesis does not discuss this aspect, and it is an interesting starting point for further research to understand how indigenous movements understand and construct resistance to mining at the global scale.

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## Appendix 1: *List of informants*

<b>Informant</b>	<b>Organization</b>	<b>Date interviewed</b>	<b>Place interviewed</b>
<b>Anabel Sibrain</b>	Plataforma Holandesa	25/08/12	Guatemala City
<b>Dr. Yuri Melini</b>	CALAS (director)	26/08/12	Guatemala City
<i>Anonymous 1</i>	<i>Community leader from Sipacapa</i>	04/09/12	San Marcos
<b>Fausto Valiente</b>	ACAS (director)	05/09/12	Sipacapa
<i>Anonymous 2</i>	<i>Community leader from Sipacapa</i>	05/09/12	Sipacapa
<b>Teresa Fuentes</b>	COPAE, legal dept.	06/09/12	San Marcos
<b>Fernando García</b>	COPAE, communication dept.	07/09/12	San Marcos
<b>Roberto Marani</b>	COPAE, political dept.	07/09/12	San Marcos
<i>Anonymous 3</i>	<i>Community member, San Marcos</i>	09/09/12	San Marcos
<b>Ekaterina Parrilla*</b>	MEM, vice-minister of sustainable development	17/12/12	Guatemala City

*\*Two other members of MEM, Louis Caceres (advisor for the Vice-Ministry of Sustainable Development) and Fernando Castellanos Barquin (Director General of Mining), joined this interview. They had a minor roles during the whole interview, and all direct quotes are from Ekaterina Parrilla. For the sake of simplicity I refer to this interview by informant Ekaterina Parrilla.*

# Appendix 2: *Interview guide*

(Translated from Spanish)

## **Introduction**

1. What position do you hold in the organization?
2. How many years?
3. Can you describe the structure of the organization and its mission?

## **In general**

1. What is Montana Exploratory doing I Guatemala?
2. What challenges face Guatemala related to mining?
3. What role does mining play in economic development I Guatemala?
4. Can mining be good in Guatemala?
5. How has mining affected Guatemala?
6. How is the legal framework on mining?
7. How are the institutions at regulating mining
  - a. MEM? MARN?
8. How is the state of the civil society in Guatemala?

## **Resistance**

1. Why is it important to resist?
2. How was the early resistance?
3. Who are the main actors?
  - a. What is the role in the movement?
4. What are the demands of the anti-mining movement?
5. What strategies are used?
  - a. What has worked? Hasn't worked?
  - b. What role does the community consultation play?
6. What are the challenges to anti-mining resistance?
7. What is resistance an expression of?
8. How is anti-mining resistance to Marlin elsewhere?
9. How's is dialogue with the authorities/ Montana?

10. How does the authorities react to resistance?
11. What role have international organizations played?
12. What role does ILO169?
13. Do you consider the resistance to be successful? Why/why not?

### **Concluding**

1. What future does mining have in Guatemala?
2. What's the alternative?
3. Is there anything you want to say, or something I left out/forgot to ask?
4. Any question regarding how I'm going to use this information?