



Position Paper on Extractives in Latin America

Context

Over the years, many Latin American communities have been heavily affected by the activities of companies exploiting natural resources, such as oil, gas, gold, silver, iron, copper, and tin, as well as by other large-scale development projects, such as agribusiness, highways, hydroelectric, wind power, etc. Worryingly, the situation in the region has further deteriorated in recent years, as extractive activities have continued to increase substantially and are expected to grow even more due to new national policies stimulating them.¹ This increase in extractive activity, mostly by transnational companies, generates irreversible and negative impacts on livelihoods, ecosystems and the human rights of local communities, often causing conflicts.

The majority of governments in the region have been supporting the practises of these corporations—which in some cases promote corruption—through changes to the law, the reduction of taxes, and the lowering of ecological safeguards. Additionally, governments have placed the police and the army at the service of corporations instead of taking action against the participation of armed groups.² Moreover, those activists who defend their rights and territory are criminalised, prosecuted and in some cases murdered. Governments are not complying with internationally-recognized human rights instruments, the Sustainable Development Goals (SDGs) and the UN Climate Agreement. For their part, extractive companies are not adhering to UN and regional standards on business and human rights.

Human rights violations

In several instances, Latin American representatives of the Catholic Church and NGOs³ have presented information to the Inter-American Commission on Human Rights (IACHR) as evidence of the social, health, political, cultural and environmental impacts the extractive industry has on communities, especially indigenous and Afro-descendent populations. Pax

¹ This is in line with the position of the Latin American Churches and Mining Network (REDIM).

² To illustrate, see the report of our member organisation PAX describing paramilitary involvement in the Colombian region of Cesar in support of foreign multinationals. PAX, 'The Dark Side of Coal: Paramilitary Violence in the Mining Region of Cesar, Colombia', June 2014, online available at: <https://www.paxvoorvrede.nl/media/files/pax-dark-side-of-coal-final-version-web.pdf>.

³ For example, the support of the Conference of Catholic Bishops of the United States to the Bishops of CELAM and the Panamazon Network-REPAM in their complaints about mining in the region. See 'Latin American Bishops Petition Inter-American Commission on Human Rights to Hold Mining Companies Accountable for Economic and Environmental Harm', 19 March 2015, online available at: <http://www.usccb.org/news/2015/15-042.cfm>.

Christi International shares their deep concerns regarding the human rights of affected communities whom we have been supporting in various Latin American countries.⁴

The human rights of the individuals and communities affected by extractive projects are articulated in international and regional legal instruments⁵ as well as in the international development agendas. Companies also have the obligation to respect these human rights.⁶ However, based on our work with Latin American communities affected by the extractive industry, it is our assessment that these human rights are being violated systematically:

- The rights to health, food, water, and a healthy environment
- The rights to land and property
- The right not to be tortured or inhumanely treated
- The rights to life, security and liberty
- The right to decent work and prohibition of forced work
- The right not to be displaced
- The right to non-discrimination regarding gender and race
- The rights of minorities and indigenous people
- The rights to information, expression and association
- The rights to consultation and participation
- The right to effective recourse to tribunals

Moreover, according to Global Witness, the Latin American region has been the world's most deadly region for environmental activists. In 2016, Latin America accounted for more than 60% of all such killings across the world.⁷ Pax Christi International, its members and partners have witnessed that it has become increasingly difficult to support communities and those people who are standing up for their human rights because of the intimidation of

⁴ Pax Christi International is working with member organisations in Mexico, Guatemala, Colombia, Peru, Chile and Paraguay, who accompany communities resisting and defending their land from the extractives industry. Through this work, our members and partners generate awareness of people at the national level as well as at international level regarding the obligation for governments and transnational corporations to respect and protect the human rights of vulnerable communities.

⁵ Such as the UN Universal Declaration on Human Rights (1948), the UN International Covenant on Civil and Political Rights (1966), the UN International Covenant on Economic, Social and Cultural Rights (1966), the United Nations General Assembly Declaration on the Right to Development (1986), the Convention on Biological Diversity (1992), the International Labour Organization's Conventions, among them: the Forced Labour Convention (1930), the Protocol to the Forced Labour Convention (2014), the Indigenous and Tribal Peoples Convention (1989), the Worst Forms of Child Labour Convention (1989); the Minimum Age Convention (1973), the Occupational Safety and Health Convention, Safety and Health in Mines Convention (1995), the Convention on the Elimination of All Forms of Discrimination against Women (1989), the Convention on the Rights of the Child (1989) and the Convention against Transnational Organised Crime and its Protocols to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000). At the inter-American level, amongst others, the American Declaration on the Rights and Duties of Man (1948), American Convention on Human Rights and the American Declaration on the Rights of Indigenous Peoples (2016).

⁶ For example, through the UN Guiding Principles on Business and Human Rights, online at: http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

⁷ Global Witness, 'Defenders of the Earth', 13 July 2017, online available at: <https://www.globalwitness.org/en/campaigns/environmental-activists/defenders-earth/>

companies and governments. Such intimidation even includes killing. This year, the IACHR condemned the murders of human rights defenders in the region.⁸

Latin American governments have the obligation to promote and protect the human rights of their citizens and communities. However, in many countries, institutional and legislative structures do not seem to defend human rights; on the contrary, they seem to favour the agenda of corporations. Transnational extractive enterprises and their influence can lead to imbalances of power between the institutions of the states where they operate. Moreover, the governments of the region, some with high levels of corruption, feed on resources provided by the extractive industries, while neglecting violations of human rights. On a positive note, the government of El Salvador, thanks to the organised pressure of civil society over the last decade, recently set a good example for other Latin American countries by banning metallic mining.⁹

It is important to note that community groups and leaders supported by Pax Christi International, as well as its member organisations and partners, have been developing and implementing nonviolent strategies based on human rights ethics in response to the destructive activities of extractive industries. Such strategies are a way of increasing communities' capacity to advocate and influence for their own rights. Also, alliances have been created with churches and other social groups with the aim of impacting public policies. With new knowledge and skills, they have been strengthened to generate alternative solutions to extractive activities taking place beyond their control in their territories.¹⁰

Calls to the international community

Pax Christi International calls upon governments, the European Union, the Organisation of American States, the United Nations and the Vatican, who have put the problem of extractives and their impact on their agendas, to exert more pressure on Latin American governments and transnational corporations to respect human rights and environmental standards and to heed the voices of affected communities. Specifically, we recommend the following:

- To make the voices of communities that have been affected by extractive industries heard, not simply by establishing dialogues with transnational corporations but by effectively protecting their rights based on their interests and needs.
- To address the collective rights of communities, especially indigenous and African-American populations as well as those of rural and urban mestizo communities, in national, regional and international policy meetings and to recommend policies and practices to stop violations committed by governments and businesses.

⁸ OAS, 'IACHR Condemns Murders of Human Rights Defenders in the Region', 7 February 2017, online available at: www.oas.org/en/iachr/media_center/preleases/2017/011.asp.

⁹ Oxfam International, 'El Salvador takes historic step with national ban on mining projects', 29 March 2017, online available at: <https://www.oxfam.org/en/pressroom/pressreleases/2017-03-29/el-salvador-takes-historic-step-national-ban-mining-projects>.

¹⁰ Departamento de justicia y solidaridad, 'International conference concluding document: Extractive Industries (Mining and Hydrocarbons), the issue of non-renewable natural resources in Latin America and the Mission of the Church Lima, 14-16 July 2011, online available at: https://www.misereor.org/fileadmin//user_upload/misereor_org/Publications/englisch/concluding-document-celam-extractive-industries-latin-america.pdf.

- To support human rights defenders at risk in Latin America, especially through empowerment, protection and legal assistance, to counteract high levels of impunity.
- To ask for transparency and accountability of governments, as well as transnational extractive companies, as a premise to strengthening the rule of law.
- To demand from governments effective processes of consultation with rural and urban communities to obtain their free, prior and informed consent to extractive industries. Also, to respect popular consultations that allow communities in many countries of the region to decide whether or not they want exploration and mining in their territories.
- To promote among governments serious, objective and independent research, including by public universities, with truthful information on the real impacts of the extractive industry, while opposing disinformation spread by extractive industries to mislead communities and influence public opinion.
- To establish national structures such as an ombudsman in the countries of origin of extractive transnational corporations in order to investigate human rights abuses in Latin American countries, and to ensure that transnational corporations follow the recommendations emanating from such structures.
- To initiate—as the regulation of the extractive industry has not been effective in preventing damages to communities—a review of existing concessions, specially those located in indigenous lands or zones of protection; to decrease levels of consumption by rich countries; and to institute a moratorium on concessions, as El Salvador has done, in order to plan a more sustainable environment and respect communities rights.
- To ensure that trade agreements contribute to the sustainable development of Latin American countries and that human rights and environmental clauses are fully respected.
- To cancel and oppose investor state dispute settlements that allow corporations to sue governments in private courts when governments do try to uphold public health and environmental laws or cancel mining permits for projects that cause social and environmental harm.
- To contribute to the implementation at the national, regional and international levels of the UN Guiding Principles on Business and Human Rights through concrete policies and to move towards a binding United Nations treaty on the subject as a favourable option for communities and society in general, not market forces.
- To ensure that Latin American governments comply with the norms and recommendations of the IACHR and the Inter-American Court of Human Rights.

Furthermore, we would like to register our concern regarding the manipulation by transnational corporations of religious faith in affected communities as a way to improve its image for its extractive projects. At the same time, we appreciate the initiatives taken by the Vatican to promote a dialogue based on the preferential option for the most vulnerable and for the sustainability of the planet. In this regard, Pax Christi International would like to draw

the attention of the international community to the encyclical *Laudato Si'*¹¹ by Pope Francis, which magnificently reflects our concerns and the urgency of building a Christian and ethical response. The pope calls on us to understand the imperative of committing ourselves to the common destiny of goods and to prevent the economic greed of power groups and excessive consumption in our societies from continuing to harm the poor and excluded and being an obstacle to a sustainable management of our common house, Planet Earth.

Importantly, the encyclical also gives us guidelines for the evaluation of projects of the extractive industry so that we might assess whether they will contribute to genuine integral development. We should ask: What will it accomplish? Why? Where? When? How? For whom? What are the risks? What are the costs? Who will pay those costs and how?

As Pope Francis has stated, the extractivist model is not sustainable and needs changes in the short and medium terms, while keeping a long-term perspective for a future of justice, equity and sustainability. The problem of the extractivist model is an ethical problem which invites us to think, as described in *Laudato Si'*, of a single world and a common project with shared responsibilities and differentiated contributions.

Pax Christi International is a Catholic and faith-based peace movement with 120 member organisations worldwide promoting peace, respect for human rights, justice and reconciliation. The issue of extractives in Latin America is one of our advocacy priorities. We are a solidarity member of REDIM – the Latin American and Caribbean Churches and Mining Network – and we are in close contact with the Amazon Ecclesial Network, REPAM, supported by the Latin American Episcopal Council, CELAM.

¹¹ The encyclical *Laudato Si'* of the Holy Father Pope Francis on care for our common home can be consulted here: http://w2.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html.