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Natural Resources
Submitted by
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**The mining industry and its impacts on population and environment:
The Majaz case (Peru)**

Affected communities' demands:

Presentation of Mr. Nicanor Alvarado Carrasco,
Brussels, European Parliament, March 2006

Introduction

Historically mining companies have had a poor reputation. The contamination of water sources, the usurpation of ancestral territories, the exploitation of cheap labour and severe abuses of Human Rights form a part of their perceived repertory to affected populations and other social actors all over the world.

Although the extractive industry can contribute to the economy of a country, several studies of Oxfam America and others indicate that the mineral (and oil) dependence is strongly correlated with unusually bad conditions for the poor: low living standards (lower than one might expect given their per capita incomes), high rates of infant mortality, high income inequality, and vulnerability to economical shocks¹.

Extractive industries can provide benefits to the local population, if they spur the development of related non-extractive industries. One way is to tighten relations with industries that supply goods. Another is the development of the downstream (processing) industries which process and aggregate value to the products. A third way consists in promoting other (non related) sectors of the economy².

But in general the mining industry contributes little to the other sectors of the economy. There is a tendency to use staff and services from other regions and countries instead of local ones. The mining sector tends to draw labour and capital away from other sectors of the economy (known as the 'Dutch disease'). These effects can reduce the international competitiveness of the country's agricultural and industrial exports, making it harder for the country to diversify its exports and generate pro-poor forms of growth. Furthermore, the dependency of the international prices of the minerals – which fluctuate more than the prices of the manufactured products – creates a vulnerability to economical shocks³.

Extractive sectors tend to be capital intensive and use little unskilled or semi-skilled labour. Mining is concentrated in specific geographical areas and creates small pockets of wealth that fail to spread, while it produces social conflicts and environmental degradation; both mainly affecting the poor farmers' population. The exploitation follows a cycle of rapid financial fluctuation which creates insecurity for the poor. It also consumes a lot of energy and raises the risks of corruption and severe civil conflicts. The changes in the industry since the beginning of the nineties...

“(...)are reflected in the scale of mining operations in a country like Peru that are now three to five times the magnitude of a decade ago, as preference is increasingly given to open pit mining. As a result of these technological innovations there has been a dramatic change in the nature and degree of environmental impacts. Conflicts between mining companies and local communities, particularly over access to land, have intensified⁴”.

These conflicts have grown parallel to a - nearly general - awareness about the importance of Social Corporate Responsibility.

“It is increasingly accepted that social corporate responsibility is a key requirement for creating a prosperous and ecologically and socially sustainable world. But many companies fail to live up to their own definition of good corporate citizenship. All too often, mining operations continue to be out of step with accepted international

¹ Patricia Feeney, *The Relevance of the OECD Guidelines for the Multinational Enterprises to the Mining Sector and the Promotion of Sustainable Development*, Oxford, 2002, p 3-4.

² Ibid., p. 4.

³ Ibid., p. 4-5.

⁴ Ibid., p. 5.

standards: for example, the World Bank Guidelines on pollution abatement and WHO Air Quality Guidelines. There has been insufficient public debate about the exemptions that mining companies have negotiated with governments which release them from compliance with the national and international environmental standards for lengthy terms. This is largely because there is no disclosure of the social and environmental components of the development agreements, even after a sale has been concluded and the crucial importance of commercial confidentiality no longer prevails.”⁵

The European Union and its institutions and members pretend to promote the respect for the Human Rights, within its territory as well as in third countries, with which the EU has commercial relations and cooperation agreements.

In the corporate sphere, this focus is reflected in the promotion of the Corporate Social Responsibility (CSR), defined as the “voluntary integration, by the companies, of social and environmental concerns in its commercial operations and in its relations with its ‘co-operators.’”⁶

“As being declared in the Strategy in favour of sustainable development, adopted by the European Union at the Goteborg summit in 2001 and in the List of Fundamental Rights proclaimed in Nice in 2000, the EU has committed itself to fully integrate in its policies and actions considerations of economic, social and environmental nature, in accordance with the concept of SCR. The Commission commits itself to promote to the largest possible extent the integration of the CSR principles in the politics of the EU”⁷.

“The principles of the SCR are especially important in the following politics of the EU:

- Politics of employment and of social affairs (education/permanent formation/information/consultation/equality of opportunities/integration of disabled people/anticipation of the industrial changes and switches);
- Company policies (a balanced focus which maximizes the synergy between economic, social and environmental dimensions);
- Environmental politics (constant evaluation of the environmental results continua/concept of ecological efficiency which compares the quantity of goods produced with the environmental impact of the production/recognition of the environmental questions in the annual reports of the companies/contribution to development of an environmental technology with a better ecological behaviour and with long term benefits for the companies);
- Consumer politics (consideration of consumer interests, increasingly demanding in environmental and social themes);
- Public contracting politics – public purchasers (take advantage of the fact that the public buyers tend to have more liberty to take into account social and environmental aspects /facilitate the exchange of best practices in this domain);
- Foreign politics, commercial and development cooperation (take advantage of the different ties with countries in the whole world due to political and commercial agreements aiming at respecting the international social and environmental norms and in matters of humans rights/for part of the EU, address directly the multinational companies to promote these considerations);

⁵ Patricia Feeney, *The Relevance of the OECD Guidelines for the Multinational Enterprises to the Mining Sector and the Promotion of Sustainable Development*, Oxford, 2002, p 6-7.

⁶ Comisión de las Comunidades Europeas, *Libro Verde*, Fomentar un marco europeo para la responsabilidad social de las empresas, Bruselas, 2001 (COM (2001) 366 final).

⁷ *Integración de la RSE (Responsabilidad Social Empresarial) en las demás políticas comunitarias (de la Unión Europea)*, <http://europa.eu.int/scadplus/leg/es/lvb/n26034.htm> (Published: 05/07/2003).

- Public administrations (integrate the principles of SCR in its own management; which applies to the European Commission/internal specific projects of the European Commission to promote the concept of SCR in its services)⁸”.

More specifically, the corporate sector is stimulated to follow the OECD Guidelines for Multinational Enterprises.

The OECD Guidelines for Multinational Enterprises “constitute the most exhaustive set of norms internationally agreed upon about the activities of multinationals⁹.” These OECD Guidelines have a unique character to the EU:

“What distinguishes the *OECD Guidelines* from other, largely private initiatives is that adhering governments – of countries that are the source of most of the world’s direct investment flows and home to most multinational enterprises – have clearly stated that they are the *only* multilaterally endorsed and comprehensive code that they are committed to promoting. Another critical aspect of the *OECD Guidelines* is that adhering governments are *obliged* to monitor their implementation and put a mechanism in place – the National Contact Points – to carry out this important task.¹⁰”
(emphasis in original)

The European Commission “will support and promote the commitment of the European Community and its member states with the OECD guidelines for transnational companies, including the agreements of external relations in the following phrase: “The Parties (or the Community and its member states) remind the multinational companies of the recommendation to respect the OECD guidelines for multinational companies wherever they develop their activities¹¹.” And “to promote the CSR in developing countries, the companies of the EU must demonstrate and divulgate their full adherence to those norms in the whole world.¹²”

At the same time, these norms explicitly refer to other complementary instruments: the Universal Declaration of Human Rights, the Agreements of the ILO and the Declaration of Rio.

We demand the European Union to intervene according to its principles mentioned here, to make Minera Majaz SA (Subsidiary of Monterrico Metals Plc with seat in London) commit itself to comply with the OECD Guidelines:

“The European Union can work directly with the multinationals and encourage them to commit themselves to respect human rights and the basic labour standards (...) principally when their operations can play an important role in the countries where insufficient results in this area have been registered.”¹³

Influence can also be exerted through the National Contact Points (NPC) of the OECD to support, and in second instance to pressure, the company to commit itself to the guidelines. Amongst others,

⁸ Ibid.

⁹ Comisión de las Comunidades Europeas, *Comunicación de la Comisión relativa a la responsabilidad social de las empresas: una contribución empresarial al desarrollo sostenible*, Bruselas, 2002, p. 7 ([COM \(2002\) 347](#) final - no publicada en el Diario Oficial).

¹⁰ Patricia Feeney, *The Relevance of the OECD Guidelines for the Multinational Enterprises to the Mining Sector and the Promotion of Sustainable Development*, Oxford, 2002, p 1.

¹¹ Comisión de las Comunidades Europeas, *Comunicación de la Comisión relativa a la responsabilidad social de las empresas: una contribución empresarial al desarrollo sostenible*, Bruselas, 2002, p. 27 ([COM \(2002\) 347](#) final - no publicada en el Diario Oficial).

¹² Ibid., p.7.

¹³ Comisión de las Comunidades Europeas, *Comunicación de la Comisión relativa a la responsabilidad social de las empresas: una contribución empresarial al desarrollo sostenible*, Bruselas, 2002, p. 26 ([COM \(2002\) 347](#) final - no publicada en el Diario Oficial).

in the Majaz case Monterrico Metals is violating the guidelines II 2 Respect for Human Rights and V 2b Consultation of the Directly Affected Communities.

In the same way we demand that the European Union fulfills its role in supporting the Peruvian state to respect the international norms and to stimulate a dialogue, based on equality, between the Peruvian state, the company operating on Peruvian territory, and the communities affected by the activities of the above-mentioned company:

The European Commission will “offer the technical support needed to facilitate the accomplishment of the international norms which are valid in terms of employment and environment, contributing to sustainable development and creating a solid base for the application of the principles of CSR; by foreign as well as national investors¹⁴”. The Commission will also “generalize and emphasize the application of the SCR principles in foreign countries, for example through delegations, which will facilitate the debate and exchange of best practices between interested European parties and third countries, as well as between the latter¹⁵.”

In particular we demand ILO Convention 169 to be respected, as the territories where the mining project is exploring, belong to indigenous people, dedicated to agricultural activities. Affecting these activities has negative impacts on their lives and natural resources. The Peruvian State should respect ILO Convention 169 when developing mining projects.

In addition we want the mining problems – as described in this document – to be reported to other European institutions, political parties, civil society and the European Union member states’ population, to be included in their political agenda. We also want a close watching system for the extractive industries and the countries of that have such industries.

We would like parliamentary and/or scientific European delegations to pressure the Peruvian government and the European companies that operate on Peruvian territory, to pay more attention to ecological and social problems related to mining, and equally ask responsibility for the violent repression of protest actions in the area of the Rio Blanco project in August 2005. We ask to send an investigation team to the area in Northern Peru where the mining company Majaz (subsidiary of Monterrico Metals) is operating, to analyse the social situation and make an independent report.

We want European institutions and organizations to support us in the accomplishment of the following demands, issued by the communities affected by mining activities to the Peruvian government and to the companies who operate on their territory, specifically the Minera Majaz SA (subsidiary of Monterrico Metals Plc, UK):

¹⁴ Ibid., p. 27.

¹⁵ Ibid., p. 27.

Demands

I. Human Rights Demands¹⁶

The presence of the Minera Majaz SA mining company (Monterrico Metals Plc) with its Rio Blanco mining project puts in danger the life and health of thousands of human beings in northern Peru. The company imposes itself on the right of autonomous (economic) development of the communities and their inhabitants.

The Monterrico Metals company threatens to destroy or irreversibly damage:

- The ecological¹⁷ and biological potencial (biodiversity) that exists in and characterizes the area.¹⁸
- The river valleys and the river basins in the páramos, which are the main providers of water in the northern region of Peru (pollution of the Canchas, Chinchipe and Huancabamba rivers, which are the source of life for thousands of inhabitants¹⁹).
- The current agricultural production system and further agricultural development, the main economic activity of the inhabitants.²⁰

The Majaz mining project is currently in exploration phase and so far has affected the zone by means of multiple perforations, the creation of tunnels and profound water pits. The activities of Monterrico Metals are destroying natural (some of them virgin) forests and are altering the environment by means of permanent helicopter flights. They damage the ecosystem and contaminate the rivers which are the direct source for the alimentation of hundreds of families living in the area.

The main international Human Rights agreements ratified by Peru are:

- Universal Declaration of Human Rights (Legislative Resolution N° 13282 of 24/12/1959).
- American Declaration of Rights and Duties of Man.
- International Pact of Civil and Political Rights (Law N° 22128 of 28/03/1978).
- International Pact of Economic, Social and Cultural Rights (Law N° 22129 of 11/07/1978).
- The American Convention of Human Rights, the Pact of "San José de Costa Rica" (Decreto Ley N° 22231 de 11/07/1978)
- Agreement N° 169 of the ILO "About Indigenous People and Tribes in Independent Countries".
- Convention of the Rights of the Child.
- Convention about Biological Biodiversity (Law N° 26839 of 16/07/1997)
- Declaration about the Principles of International Cultural Cooperation.
- Declaration about the Rights to Development.

Due to the activities of the Majaz mining company, the following rights are being violated:

¹⁶ The demands are organized by theme, although it is clear that they generally embrace various themes at the same time.

¹⁷ High risk of destruction of or irreversible impact on the 'páramos' and the cloud forests, two fragile ecosystems in the area.

¹⁸ Threatening the biological biodiversity of our planet, specifically various endangered species of unique animals and plants, declared in danger of extinction by the WWF red book.

¹⁹ The pollution of the water supplying valleys harms the agricultural activities, the main income source of these provinces. Furthermore it affects the health and lifestyle of thousands of inhabitants, inside as well as outside the area surrounding the valleys.

²⁰ The agricultural activities are famous for the exportation of, e.g. high quality coffee.

- The right to live;
- The right to physical, moral and psychological integrity;
- The right to prior and informed consent;
- The right to property of communal territory;
- The right to freedom of peaceful assembly and association;
- The right to social protest;
- The right to live in a healthy environment;
- The right to peace and public order;
- The right to freedom of information;
- The right to autonomy of the communities in its organization and free disposition of its territory;
- The right to choose one's own development;
- The right to existence of the communities.

Specially affected are the right to territorial property for the communities, the right to biodiversity, and the right to choose your own development model. The Majaz mining company pretends it can enter an area where life and development are organized in and by the communities, without respecting the vision and existing decision-making structures of the local people that historically inhabit the area.

A territory is a geographical entity, where people live and enjoy their culture, which permits to develop a particular identity as a people. That is why the people are intensively linked with their territory, and why, without a territory, the people cannot exist. Territory is a – spiritual and physical – source of life for indigenous communities, and the people have a complementary and reciprocal relationship with their territory.

For an indigenous people, with distinct cosmovisions and particular perspectives, its territory is vital, not only for its survival, but also for the ancestral links which provide strength for and social cohesion within the group.

The communal territory comprehends the totality of the habitat of a people. The total habitat means the upper soil (including, amongst others, natural forests, agricultural fields, ancestral roads, the archaeological and ceremonial centres, hills and mountains), the main waters (lakes, springs, rivers, páramos,....) as well as the underground, where from a cultural point of view the culture of a people was born and reproduces itself.

Article 13 of Agreement 169 of the ILO (International Labour Organization) states that:

"1. In applying the provisions of this Part of the Convention governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or with both, which they occupy or otherwise use, and in particular the collective aspects of this relationship.

2. The use of the term "lands" in Articles 15 and 16 shall include the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use."

Likewise, in Article 17 of the Universal Declaration of Human Rights it is stated that "Everyone has the right to own property alone as well as in association with others."

The American Convention of Human Rights, in its article 21 (About Right to Property), states:

"1. Everyone has the right to the use and enjoyment of his property. The law may subordinate such use and enjoyment to the interest of society.

2. No one shall be deprived of his property except upon payment of just compensation, for reasons of public utility or social interest, and in the cases and according to the forms established by law.

3. Usury and any other form of exploitation of man by man shall be prohibited by law."

The Peruvian Constitution states that the rural communities are autonomous in the use and the free disposition of their lands²¹. The rural communities are allowed to raise taxes or exercise whatever activity they want on their lands within their territories, as long as the activity receives the required agreement of the General Meeting, with a two third majority vote of all the community members.

However, we see that the Majaz mining company has been authorized by the Peruvian State to exploit those territories without the previous requisite ordered by the Law, and without the free, previous and informed consent of the communities²².

The mining company is neglecting the rights of the people to choose their own development model, ignoring the demand of ILO Convention 169, which states that: "The peoples concerned shall have the right to decide their own priorities concerning 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, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly."

The Majaz company has not respected the right to consultation of the farmer communities which inhabit the zone and which are the owners of the territory where the mining project 'Río Blanco' is operating. The affected communities have not authorized the Majaz Company to use the communities' lands for the company's mining activities. The Majaz Company is therefore falling into illegal and illegitimate possession of community land, breaking national laws and international agreements.

The Majaz company is operating illegally and claims to continue with the Río Blanco project, by means of depriving the communities of their territories, and usurping these lands.

The Majaz company is acting out of economic interests, without caring about the preservation of human beings, descendents of the indigenous peoples, living in economic austerity and depending on agriculture and modest livestock activities. These people now see themselves negatively affected by the development created by the Majaz company, which affects their health and their living activities, the social balance and the preservation of the local and regional cultures.

The Majaz company wants to impose a development model on the local communities, opposing the development model that the inhabitants of the four affected provinces (Ayabaca and Huancabamba in the department of Piura; Jaén and San Ignacio in the department of Cajamarca) want. Therefore, Majaz acts against the right to development of these peoples.

Parts of the affected communities are actually being occupied by the National Police, disturbing social peace and life in general. Furthermore, police forces closed down rural roads, with the goal of denying access to the zone occupied by the mining company. The Majaz company itself collaborated with police troops to repress the population: that collaboration led to the violation of human rights by causing deaths (two campesinos died), by organizing arbitrary detentions, by

²¹ The Political Constitution of Perú states in its article 89 that farmer and native communities are "(...) autonomous in their organization, in their communal work and in the use and free disposition of their lands, as well as in the economic and administrative domains, within the frame of the law". (emphasis by Conacami)

²² Article 11 of the Law N° 26505.

torturing people, by press campaigns against farmers' leaders, by restricting the liberty of information of the local independent press (detentions, denunciations and closure of broadcasting stations). The Majaz company also started to persecute and intimidate leaders and authorities, resulting today in more than 150 farmers, rondero leaders and local authorities, who are charged with judicial complaints.

We therefore demand that all aforementioned rights shall be respected.

II. Economic Demands

1. We demand a review of the legal, tributary and administrative contracts which many mining companies subscribed with the Peruvian State (during the Fijumori-Montesinos dictatorship or during the Toledo presidency) and demand a just amount of royalties from the operating mining companies. Mining, precisely one of the most profitable activities in Peru, only contributes (through taxes) an average of 5% of the total of the national revenues. We demand that the mining companies pay real royalties according to the volume of production.

2. We demand that, in the frame of the decentralization process of the State, it should be general policy that a bigger percentage of the mining revenues coming from a specific region and/or province in which the mining activity is realized, should be spent in and for the communities in the concerned area. The revenues should be used for socio-economic development programmes, for environmental and social monitoring, and for educating the local inhabitants, enabling them to work in the mining industry. We also demand that priority be given to the implementation of – socially agreed upon – local development plans, stimulating the development of new regional economies based on the regional ecological capacities. The aim of any development program has to be that communities affected by mining activities improve the situation of extreme poverty in which they are actually living.

3. We demand the Peruvian State as well as any mining company to adopt a progressive policy to reach financial transparency.

4. We urge that the Peruvian State stimulates and promotes the acquisition of local products and the use of local services during mining operations. In the same way, the State should offer educational programmes for the local inhabitants, enabling them to work for the mining industry, and to avoid employing people of other areas or foreigners in the mining industry.

III. (Socio-) environmental Demands

1. We demand that, en general, the State accomplishes its task as a regulating entity of the mining policy, controlling the compliance with environmental norms during the development of the mining activity, while the communities (the civil society) should take on the role of environmental and social vigilance to the mining sector and the State.

2. We demand a policy that promotes and gives priority to agricultural activities, to sustainable agriculture, to agroindustry, and to ecotourism, for being an employment source and for bringing money into the country, without polluting. More than 3 million Peruvians work in the agricultural sector while the mining activity only gives employment to approximately 70,000 people and leaves huge amounts of environmental polluting waste.

3. We demand the establishment of an autonomous environmental mechanism for mining, with sufficient resources and authority to unify and harmonize the environmental management system, with participation of the civil society. This will permit to make state activities transparent and efficient. At the same time it will allow the development and/or modification of environmental management and control mechanisms.
4. We demand the immediate restructuring of the National Environment Council incorporating the communities affected by mining. The Council does not control nor resolve environmental problems and conflicts. Instead, the Council acts in favour of those who generate pollution. We therefore demand effective regulative mechanisms in environmental matters.
5. We demand the implementation of Territorial Structuring and Economical, Ecological and Production Zonification Policies at local and regional level, which will permit to delimit the mining concessions and thus protect fragile ecosystems (páramos, cloud forests, river sources,...) that are highly threatened, or for agricultural use (declaring as intangible zones the ones dedicated to agriculture and prioritizing agriculture before mining activities), for forest use, or of large biodiversity, in this way guaranteeing food security and the conservation of the ecosystems.
6. We demand the Peruvian State to make efforts to stop polluting emissions. This means protecting the water resources, the air and the soils from all contamination (and exhaustion). We demand that the State prohibits dumping waste in the oceans, lakes and rivers (16 of the 53 rivers which flow into the Pacific Ocean are polluted by mining). We ask that the State guarantees that mining operations do not cause acid drainings into land and waters.
7. We ask the Peruvian State to adopt a transparent policy, assuring that human rights always prevail, especially those of the indigenous peoples (as it is within their territories that mining projects are to be found). If, for example, the right to health is violated by a mining company, the mining company should be obliged to stop the violations, to repair the damages and to compensate for the damages caused.
8. We demand that the Peruvian State monitors that mining companies effectively cover all the costs of the closing and cleaning of mining areas and settlements.
9. We ask the recognition of the successful experiences in local environmental monitoring of some organizations, together with community members and local governments.
10. We demand economic compensation for the damages done. One of the most notorious frustrations of communities is that the Peruvian justice system obviously does not have enough authority to sentence the guilty in case of an emergency and/or an environmental accident. If the Peruvian state wants to defend the rights of its affected citizens, the administrative fine is clearly insufficient. We therefore ask larger and better investigations into the economic valuation of the environmental damages. Furthermore, these investigations could be used in the previously mentioned discussion about the zonification of mining.
11. We demand independent institutions to carry out independent studies about the environmental impacts (EIS) of future mining projects, as well as to carry out independent environmental audits. We demand that the normative system be adapted to ensure their independency.
12. We demand educational initiatives, mechanisms for information and appropriate consulting. We demand the development of a participative environmental management system, which will

essentially imply an information policy, permitting the citizens to access and use that information in an appropriate way.

Therefore, also taking into account cultural elements, we want to stress the necessity of educational projects about participative environmental management of mining projects.

We also ask the integration of social and environmental policies within the frame of the mining investments promotion. This could be the key to initiate the way towards a bigger sustainability in the sector. The participation of informed citizens together with transparent relations built on confidence, will guarantee the independence of all actors.

13. We demand that the Peruvian State adopts the international environmental standards in its legislation, to guarantee a greater respect for the environment in general and for the ecological and biological biodiversity in particular. In the long run, environmental and social standards and agreements about the extractive activities, formulated after a consulting process with the communities, should be developed into global agreements.

14. We demand that any community, situated in a possible future mining area, can decide by referendum on whether or not granting a social and environmental licence to a mining company. Having such licenses ought to be compulsory for mining companies in order to develop their activities. The referendum should be held according to worldwide standards.

15. We demand that the Peruvian State accepts the Environmental Health Emergency Declaration Proposal as part of the national Peruvian legislation.

IV. Legal Demands.

1. The Peruvian State denounced, through its state prosecution office, non-existent crimes, as for instance belonging to criminal gangs, although the State lacked any evidence. Being a leader of a social organization or belonging to a farmer union has been enough to be accused of crimes.

1.1 We therefore demand amnesty for all those who have been denounced and prosecuted as a consequence of social conflicts between the mining activity and rural communities.

2. The use of violent public police force in order to 'regain control' during the incidents of July 25th till August 2nd of 2005 (Piura) led to the death of one 'rondero'(farmer) and many got injured – while the State could have resolved the situation peacefully by initiating a dialogue.

2.1. We demand the installation of a parliamentary commission to start a profound investigation into why the State opted for a violent repression and not for a dialogue.

2.2. We demand a compensation for the family of the murdered rondereo, as well as for the injured ronderos.

3. Abuse of criminal law by using it as a political instrument of social control, whereas it was intended to be used only subsidiary and as a last option.

3.1. We demand the cessation of the use of criminal law to prosecute social organizations and their leaders.

V. Political Demands.

1. We demand a New Political Constitution giving back the territorial and ancestral rights to the communities and to the indigenous people.
 2. We ask a revision of the Environmental Law, taking into account the contributions of the affected communities.
 3. We urge the enactment of the Environmental Insurance Law to cover environmental disasters and waste treatment.
 4. We demand a general revision of the Mining Law and the derogatory of the unconstitutional Law N° 26570 (Ley de 'Servidumbre Minera').
 5. We demand a revision of the Water Law, to guarantee access to water as a fundamental right, stopping the tendency towards privatisation and commercialisation of waters.
 6. We demand the immediate installation of a "National Triparty Commission", where the State, the companies and the communities together seek adequate solutions for the socio-environmental conflicts in different regions of Peru. This commission should not only look for alternatives, but should also start a profound analysis of the situation. The installation of this commission has been signed by the Peruvian government on July 8th 2002, but has until now been dead letter.
 7. We demand the application of the right to Consultation and Participation of the communities according to Articles 6 and 7 of Agreement 169 of the International Labour Organization, which establishes that the indigenous people – organized in communities in Peru – have the right to consultation and participation in decisions which directly affect their ways of life and their development priorities.
- Peru has ratified the Convention 169 of the ILO, which is applicable since 1995. However, Peru has not regulated the Convention 169 into national norms for procedures of adequate and effective consultation and participation of the peoples and the communities, as Art. 15, point 2, of Agreement 169 establishes. We therefore demand the consultation and participation of the peoples and communities about the exploration, the impact studies (environmental, social and economic), the exploitation and the closure, as well as about the taxes the mining projects will contribute. This requires a transparent management of the information and includes a broad process of informing the communities about economic, social and environmental impacts of mining projects.
8. We demand the development of mechanisms that permit preventing or channeling conflicts in a democratic, pacific way, respecting human rights.
 9. We demand the right to property of land be guaranteed in relation with the rights of the mining concessions and that mechanisms be established so that the land be transferred in a way respectful of the pre-existent rights.

Lima, March 3, 2006.

Miguel Palacín Quispe
Presidente de Conacami

Mario Palacios Panéz
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