

PASC DELEGATION, SUMMER 2013

Hearing on the Canadian oil company Pacific Rubiales Energy



Report of the Canadian delegation to Colombia to participate in the public hearing on the oil company Pacific Rubiales Energy under the auspices of the People's Tribunal on the Natural Resource Extraction Industry in Colombia

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1. Report of the Canadian delegation to Colombia to participate in the public hearing on the oil company Pacific Rubiales Energy under the auspices of the People's Tribunal on the Natural Resource Extraction Industry in Colombia

The Canadian delegation

In 2010, Projet Accompagnement Solidarité Colombie (PASC) launched a campaign against *Canadian war profiteers in Colombia*. Its goal was to raise awareness among Canadians about how Canadian investments have played a role in the climate of armed conflict that has gripped Colombia, and how this has affected the rights of many citizens of that country. This campaign was conceived as a follow-up to the mobilization against the Canada-Colombia Free Trade Agreement (CCFTA) by civil society and trade union organizations in both countries. As part of this campaign, and to give higher visibility to the ongoing protests against the actions of one Canadian oil company – **Pacific Rubiales Energy (PRE)** – PASC helped mobilize international support for a Colombian initiative known as the **People's Tribunal on the Natural Resource Extraction Industry in Colombia**.

Eight Québec and Canadian organizations took part in a July 2013 delegation to Colombia to attend the hearings: the Public Service Alliance of Canada (PSAC), the Colombia Action Solidarity Alliance (CASA), the Comité pour les droits humains en Amérique latine (CDHAL), the Confédération des syndicats nationaux (CSN), the Americas Policy Group (APG) of the Canadian Council for International Cooperation (CCIC), the Québec Solidaire party, the Communications, Energy and Paperworkers Union of Canada (CEP), and the Canadian Union of Postal Workers (CUPW). **See Appendix 1 for the detailed list of participating organizations and delegates.**

The participation of 19 delegates attests to the concern shared by these organizations regarding the impacts of Canadian investments on the armed conflict in Colombia, especially since the entry into force of the CCFTA in 2011. Colombia has the unenviable distinction of being the world's most dangerous place to be a trade unionist, and it also leads the world in internal population displacement. Despite this, numerous companies listed on the Toronto Stock Exchange are active there. These companies' activities in the mining and petroleum sectors are invariably portrayed by the Canadian government as a development initiative designed to benefit Colombians. However, an analysis of on-the-ground realities points to another side of such investment: militarization of the countryside;¹ forced displacement; environmental destruction; political repression; violations of human rights, labour standards, trade union rights, social and territorial rights.

It is no accident that the overwhelming majority of crimes and human rights violations related to the armed conflict are concentrated in regions with a major presence of mining and petroleum investment. According to the Office of the Auditor General of Colombia, 87% of the country's internal refugees come from these regions, which are also the scene of 78% of crimes against trade unionists and 89%

¹ According to an article in the Colombian weekly *Semana* (18 June 2011), 11% of Colombian army personnel are assigned to protect mining and petroleum operations. Some 30,000 Colombian soldiers are collaborating with an unknown number of private security guards and mercenaries on the payroll of private military corporations. According to Rodrigo Rivera, former minister for mining affairs, in certain departments of Colombia the percentage of armed forces devoted to oil company security is 80% (*Caracol*, 9 August 2011).

of violations of Native peoples' rights.²³

In such a context, attention should be paid to the fact that a great deal of foreign mining investment in Colombia comes from Canada, and that these investors control Colombia's largest oil and gas deposits. Yet Canada has no regulatory framework with which to force Canadian-based companies operating overseas to respect human rights. It is therefore reasonable to inquire into whether these companies have sought out Colombia for the simple reason that its prevailing lawlessness (a situation that has persisted for 60 years) allows them to take the country's resources without regard for the rights of its inhabitants.

The People's Tribunal on the Natural Resource Extraction Industry in Colombia

In the last decade and a half, Colombian organizations including the Colombia Friendship and Solidarity Network (REDHER by its Spanish acronym)⁴ have participated in international campaigns to denounce the complicity of foreign companies in crimes committed in the context of the armed conflict. Drawing inspiration from the *Colombian chapter of the Permanent People's Tribunal* (PPT) operating from 2001 to 2008⁵ and from the *International Tribunal of Opinion* model, the People's Tribunal on the Natural Resource Extraction Industry in Colombia (Juicio Ético y Político Contra el Despojo en Colombia)⁶ had two major objectives: 1) to create a social movement-run political forum in which to identify the impacts of mining and energy megaprojects (violations of labour rights, social and environmental rights, and people's rights); 2) to provide support for future political and legal action against violations committed by these multinationals in Colombia.

The *People's Tribunal* consisted of a series of theme-based hearings followed by a final summary of the accusations. There were three preparatory hearings. The first, which dealt with hydroelectricity, focused on a dam project being carried out by the Italian-Spanish company Emgesa (La Jagua, department of Huila, 16 June); the second, dealing with mining, documented the activities of the South Africa-based multinational Anglo Gold Ashanti (San Pedro Frío, in southern Bolivar department, June 28); and the third, dealing with oil and gas, took place in the town of Puerto Gaitán, where the Canadian company Pacific Rubiales Energy (PRE) has the bulk of its operations (department of Meta,

² Contraloría General de la República, "Minería en Colombia: Fundamentos para superar el modelo extractivista," 2013, online at <http://redjusticiaambientalcolombia.files.wordpress.com/2013/05/mineria-en-colombia-fundamentos-para-superar-el-modelo-extractivista2013.pdf>.

³ Ramirez Cuellar, F., *Gran minería y derechos humanos in Colombia* (Bogotá: Funtraener, 2011).

⁴ The People's Tribunal on the Natural Resource Extraction Industry in Colombia is an initiative of the Colombia Friendship and Solidarity Network (REDHER), a forum for coordination among Colombian and foreign organizations who share the principles of internationalist solidarity. In Canada, Projet Accompagnement Solidarité Colombia (PASC) joined REDHER in 2006 and has coordinated the international network since 2012.

⁵ The Permanent Peoples' Tribunal (PPT) is an independent tribunal with a mission to review and rule on complaints of human rights violations filed by victims. The PPT was founded in Italy in June 1979 by jurists, writers, and other intellectuals. In Colombia, where crime and impunity were rampant, a large number of communities (Afro-Colombian, Native, peasant) and organizations (trade union, popular, women's, youth, human rights) appealed to the PPT to conduct a national and international preparatory hearings process. The hearings, taking place from 2001 to 2008, focused on six sectors (agro-food, oil and gas, mining, biodiversity, public services, and crimes against Native communities). These international hearings showed that various companies and governments (of the countries where these companies are headquartered) were responsible, by their actions or omissions, for Colombia's policy of state-sponsored terror and expropriation. These companies included Coca-Cola, Nestlé, Chiquita Brands, BP, OXY, Repsol, Drummond, Cemex, Holcim, Muriel, Glencore Xstrata, Anglo American, BHP Billiton, AngloGold Ashanti, Monsanto, Smurfit Kappa Cartón de Colombia, Multifruits S.A.-Del Monte, Pizano S.A. and its subsidiary Maderas del Darién, Urapalma S.A., DynCorp, Unión Fenosa, Aguas de Barcelona, Canal de Isabel II, Endesa, Telefonica, and TQ3.

⁶ See <http://juicioe.redcolombia.org/>.

13–14 July 2013). The delegation of Québec and Canadian organizations attended this last hearing in order to learn more about the accusations being made against PRE.

At this preparatory hearing, grassroots community organizations, rights advocacy organizations, unions, and the populations and residents affected by PRE's activities were invited to testify before a group of experts. The experts were in charge of selecting evidence for the "prosecutor" to present against PRE and other companies, as well as the Colombian government, at the final hearing. It should be noted that both the government and the companies were invited to plead in their defense at the final hearing. Two members of the delegation were invited to join the panel of experts at the oil and gas hearing: Leila Celis, who holds a doctorate and is a professor of sociology specializing in Latin American affairs at UQAM, and Dave Coles, President of the Communications, Energy and Paperworkers Union of Canada (CEP), which has members in the Canadian petroleum sector.

The legal frameworks within which the charges were laid were international humanitarian law, international human rights law, the Universal Declaration of People's Rights (Algiers), the Rome Statute of the International Criminal Court, civil law, and domestic laws governing the environment, labour, and Native peoples. The evidence presented consisted of documentaries, witness testimony, expert opinions, and technical information.

The final session of the tribunal took place in Bogotá from August 16-18, 2013. On this occasion, the "prosecutor" presented the most persuasive evidence, and the "jury," composed of public figures, proceeded to symbolically convict the three foreign companies for violating the rights of the Colombian people and the integrity of the nation's territory. The jury also "convicted" the Colombian government for the plunder of the country's energy resources, in that it had allowed foreign companies to take these resources without regard for human rights.

The general accusations against the companies reviewed by the Tribunal were:

- lobbying for mining, energy, environment, and labour legislation to suit their own economic interests and to the detriment of the country's well-being and development;
- violating human rights by systematically assassinating, threatening, and arbitrarily detaining leaders of civil society organizations;
- violating minimal standards of environmental preservation, given that natural resource exploitation by multinationals has severely damaged Colombian ecosystems;
- causing major impacts on the ancestral communities living in the region where the multinationals operate, as well as causing the physical and cultural extermination of these communities (ethnocide).

2. Pacific Rubiales Energy, a Canadian oil company in Colombia

Pacific Rubiales Energy (PRE) is **an oil and gas company** headed by former executives of PVDSA, the Venezuelan publicly owned oil company. It is listed on the Toronto Stock Exchange. After fomenting a strike in 2002-2003 with the aim of forcing Hugo Chávez out of power, these executives were fired from the company. More recently, the new management of PVDSA has accused the men of conspiring to overthrow the Venezuelan government.⁷ At the time of the strike, the Álvaro Uribe administration in Colombia was dismantling that country's publicly owned oil company (Ecopetrol) and placing its assets under the control of public-private partnerships (PPP) involving foreign investors. Notably, this process took place under the auspices of the Canadian International Development Agency (CIDA), which offered Colombia PPP-related expertise as part of its "Energy" program.⁸

Taking advantage of an environment conducive to foreign investment and the dismantlement of Colombia's national infrastructure, the three Venezuelan businessmen (Miguel de la Campa, José Francisco Arata, and Serafino Iacono) went to Canada to look for investors interested in oil and gas exploration in Colombia. They quickly found the necessary financing and, in 2004, founded Pacific Stratus Energy. Three years later, they partnered with Brazilian businessman Germán Efromovich, then the owner of the Vancouver-based Petro Rubiales Energy Corporation. The outcome of this merger was Pacific Rubiales Energy (PRE).⁹

While PRE has oil and gas exploration activities in several countries, its petroleum production is concentrated in Colombia. The company's main oil fields are located in the vicinity of Puerto Gaitán (department of Meta, Colombia) and employ 14,000 workers. Campo Rubiales is the main oil field, with production of up to 200,000 barrels/day. In 2012, PRE announced its plan to explore Colombian shale gas and tar sands deposits as well.

To a large extent, PRE avoids hiring employees directly by contracting with other companies. These companies then hire "subcontractors" who are, in all but name, employees on 28-day renewable contracts. The result is a precariously employed workforce. Since 2011, a labour conflict has resulted in a significant number of human rights violations and attacks against unionized workers, including death threats, assaults, defamation, and attempted assassination. Among the highlights of the

⁷ Agencia Venezolana de Noticias, "Ramírez: Pacific Rubiales financia y conspira abiertamente contra Venezuela," 30 June 2013, online at <http://www.avn.info.ve/contenido/ram%C3%ADrez-pacific-rubiales-financia-y-conspira-abiertamente-contra-venezuela>.

⁸ This CIDA-sponsored international aid project received large contributions from private sponsors, including the multinationals BP Canada Energy, Cargill, Chevron Canada, Conoco, Dow Chemicals, Mobil, Shell, Total Fina ELF, Unocal, and others. The CIDA "Energy" project also entailed reform of the Colombian mining code, which was enacted in 2001 as Bill 685. To draft this new mining code, the Canadian Energy Research Institute (CERI) retained the law firm of Martínez Córdoba, which at the time represented more than half of the companies present on the Canadian mining exploitation company registry. Francisco Ramírez Cuellar, *The Profits of Extermination: How U.S. Corporate Power is Destroying Colombia* (Monroe, ME: Common Courage Press, 2005).

⁹ We note in passing that these businessmen own several mining and energy companies under a consortium called Blue Pacific. In Colombia, these companies include Gran Colombia Gold (formerly Medoro Resources), which became notorious for its attempt to move an entire village to make way for an open-pit gold mine in Marmato (department of Caldas). This project provoked sharp opposition and, according to the region's human rights organizations, led to the murder of the village priest, Father José Restrepo, in 2011. Mining Watch, "Response from Marmato, Colombia to the murder of Father José Reinel Restrepo," 9 September 2011, <http://www.miningwatch.ca/news/response-marmato-colombia-murder-father-jos-reinel-restrepo>.

Exploration by Gran Colombia Gold in the department of Nariño has also been singled out for international condemnation, among other groups by the Comité pour les droits humains en Amérique latine (CDHAL); "Menace de violences dans le projet d'exploration minière de la Gran Colombia Gold dans l'État de Nariño, Colombie," 28 March 2012, <http://cdhal.org/actions/menace-violences-projet-exploration-mini%C3%A8re-gran-colombia-gold-etat-narino-colombie>.

“Shadow Report” on the impacts of the Canada-Colombia Free Trade Agreement on human rights (2012),¹⁰ PRE is cited for unethical behaviour, including the use of contractors and employment agencies as a strategy to avoid liability under labour laws. Working and living conditions at Campo Rubiales do not meet the basic international standards prescribed by the International Labour Organization (ILO).

A labour conflict began in July 2011 when 6,000 subcontractors for Pacific Rubiales announced the formation of a Permanent Workers’ Assembly to mobilize local communities around residents’ and workers’ demands. Demonstrations were held, and in response the government called in the military, which led to clashes in August 2011, leaving 50 people injured. A solidarity caravan supported by PASC and dozens of Canadian civil society and union organizations traveled to the Puerto Gaitán area at that time. In response, the region’s oil companies fired over 500 employees suspected of union activities. Union leaders received death threats from paramilitary elements. The conflict eased momentarily on 30 September 2011 when PRE signed an agreement with the *Unión Sindical Obrera* (USO), the Colombian oil and gas workers’ union, which represents 5,000 of the PRE subcontractors.

The Canadian embassy acknowledged that the agreement had been signed in its presence, with Colombian government officials also witnessing. However, PRE backed out on the agreement in November 2011, announcing that it had negotiated a new agreement with a company union, *Unión de Trabajadores de la Industria Energética Nacional y de Servicios Públicos* (UTEN). UTEN had signed up 700 administrative employees of Pacific Rubiales, who are not subcontractors but employed directly by the company, in early October. The next day it signed an agreement providing small salary increases for these employees, but offering nothing to resolve the conflict in which some 14,000 subcontractors, including the 5,000 USO members, were embroiled. In response to this provocation, over 10,000 employees subcontracted to Pacific Rubiales went on strike.

The rival union UTEN was quick to accuse the USO of being a “terrorist” organization. In Colombia, accusing political opponents and civil society organizations of “terrorist” activities, or of siding with the guerrillas, is a tactic frequently used to criminalize dissidence. UTEN’s anti-USO campaign received broad, favourable national media coverage, probably benefiting from PRE’s high profile in the Colombian media. Pacific Rubiales is known for its large-scale ad campaigns (which sometimes include infomercials masquerading as independent reporting). Furthermore, major shareholders in PRE have recently acquired several Colombian media outlets. Daniel Pardo, an editorialist at *kienyke.com*, was fired without explanation after he accused the company of using various tactics to silence its critics. Pardo had referred to the case of economic columnist Hector Mario Rodriguez, who is now fending off a fourth PRE lawsuit for allegedly revealing the existence of legal proceedings against some of the company’s main shareholders.

An extremely grave recent incident in this ongoing conflict was the assassination of Milton Enrique Rivas Parra, who worked for the corporation as an operator and electrician. On December 10, 2012, Mr. Parra received death threats for his involvement in the USO and the Permanent Workers’ Assembly of Puerto Gaitán. The next day, December 11, 2012, Mr. Parra was assassinated just outside the offices of Termotecnica, one of several companies hiring subcontractors for Pacific Rubiales. Both companies denied any involvement in the murder and asserted that Mr. Parra, like the thousands of other 28-day contract workers, was not in the employ of Termotecnica or Pacific Rubiales at the time he was killed.

¹⁰ The 2012 “Shadow Report” on the human rights impacts of the CCFTA, titled *Preliminary Conclusions of a Baseline Study on the Human Rights Impacts of the Canada-Colombia Free Trade Agreement*, was produced by a group of Colombian civil society organizations under the direction of the National Trade Union School (*Escuela Nacional Sindical*) and the José Alvear Restrepo legal collective; see the English-language executive summary, online at http://www.pasc.ca/sites/pasc.ca/files/u6/Shadow%20report_executive%20summary.pdf.

The Canadian embassy in Colombia has been made aware of the complaints filed against this company, but it would appear that the Government of Canada has little interest in international labour standards as detailed in the ILO conventions and reaffirmed in the labour side agreement to the CCFTA. In 2011, in the run-up to the solidarity caravan to Puerto Gaitán, thirty unions and NGOs, including the USO and PASC, wrote to the embassy asking that it monitor the situation in Puerto Gaitán, and it replied that it would do so. As stated above, an agreement was signed on September 30, 2011 between the USO and PRE in the presence of the Canadian embassy and the Colombian government.

However, Canadian diplomats have done very little to oblige PRE to hold up its end of the bargain. In the wake of Mr. Parra's assassination in December 2012, the USO, alongside Canadian trade union and civil society organizations, wrote again to the embassy, and also this time to Canada's Department of Foreign Affairs. The Department replied in February 2013 with a long list of "affirmative" actions taken by Canada in Colombia, but without referring specifically to social and labour rights. To keep up the pressure on the Canadian government, PASC addressed this subject during its meeting with a Canadian embassy official in Bogotá in April 2013. The response was more of the same: a list of "affirmative" actions taken by Canada in Colombia and of possible forums for dialogue between the companies, the unions, and the affected communities, but nothing more. In May 2013, two USO representatives toured Canada to denounce PRE's conduct in Colombia, meeting with various Canadian trade union and civil society organizations as well as with lawmakers and journalists.

On May 30, 2013, the USO decided to seek justice before the courts in Colombia. Supported by the José Alvear Restrepo legal collective, the union filed suit against Pacific Rubiales Energy, accusing it of systematically violating trade union rights and persecuting the union, as well as engaging in an illegal conspiracy. USO argued that, like other companies in the region, PRE had demonstrably violated the right to freedom of association and collective bargaining, even though both of these are guaranteed under domestic law and various international conventions ratified by Colombia.

Because they threaten the very existence of the USO, PRE's unfair labour practices and discrimination against the USO represent a very grave attack on trade union rights. To defend its right to freedom of association and collective bargaining, which are guaranteed by the laws and constitution of Colombia, the USO has found it necessary to take legal action. It is now relying on the courts to enforce the rights of petroleum sector workers in the hope that they will review the matter objectively, obeying the rules of legal procedure and inquiry.

In a press release, the USO thanked the Canadian social and trade union movement for its support, particularly in Toronto where, simultaneous with the filing of the suit, activists disrupted the company's annual general meeting and forced its executives to comment on the conflict in front of the shareholders. The company directors responded that the UTEN is the only recognized union and declared – without evidence – that the USO is a violent organization. Paradoxically, although the company is in the process of applying for a 25-year extension of its concession on the Campo Rubiales site, its representatives claimed that the reserves contained in this oil field are negligible and that a shutdown of its operations there would have no impact on the company.

3. The hearings on Pacific Rubiales

The preparatory hearing on the oil and gas sector took place on July 13-14, 2013 in the town of Puerto Gaitán (department of Meta), the country's largest oil-producing region. At this event, the USO joined other REDHER-member organizations to document working conditions and attacks on trade union freedoms in the region.

The public event was attended by some 600 people, including researchers, lawyers, human rights advocates, journalists and, most notably, members of the neighbouring communities affected by oil and gas activity as well as an equivalent number of petroleum industry workers and trade unionists.

Evidence (including testimony, expert reports, audiovisual documents and presentations) was presented for each of the following themes: economic aspects, environmental aspects, the media, impacts on Native communities, criminalization, militarization, working conditions, and trade union rights.

Thanks to the availability of simultaneous translation, the members of the Canadian delegation were able to follow the proceedings.

Evidence presented during the hearing

a) Impacts on Native communities

The first item of evidence presented on this theme was judgment T-693/11 of the Constitutional Court (file no. T-2.291.201¹¹). This was a motion for an injunction filed by Marcos Arrepiche, Governor of the Native Council of Turpial-La Victoria, against the Departments of the Interior, Justice, Environment, Housing, and Territorial Development and also against the company Meta Petroleum Limited, a wholly owned subsidiary of Pacific Rubiales Energy. In this judgment of September 23, 2011, the Court handed down a historic decision in favour of the territorial rights of the Achagua indigenous people.

Several government departments were ordered to suspend permits they had issued for the construction of an oil pipeline running near the Native reserve and on the ancestral land of the Achagua people. The court found that the company had not adhered to the principle of prior consultation with the Native peoples, and ordered Meta Petroleum/Pacific Rubiales to pay the community an indemnity of nearly US \$2 million for social, environmental, and cultural damages sustained. In addition to holding that the company had shown bad faith by encroaching on the reserve, the court recognized the existence of ancestral land outside the boundaries of the reserves, and found that the construction of the oil pipeline on sacred ancestral land had caused social and cultural harm. The document in question discusses the damage directly caused by the operations of the oil company, which was ultimately allowed to continue operating on Native land even though it had to pay the indemnity.

Also denounced was the Colombian government's complicity in the process of land dispossession. One example of this was when the Department of the Interior and the Department of Justice falsely assured PRE on December 28, 2009 (file no. OFI09-44596-GCP-0201) that there was no Native

¹¹ http://www.justiciaviva.org.pe/webpanel/doc_int/doc24112011-150604.pdf.

community in the area of influence of the Quifa Norte projects in the town of Puerto Gaitán.

On this point, one witness, the sociologist J. Orozco, explained how the Sikuani people (who were found to be in danger of extinction in judgment 004/09 of the Constitutional Court) are facing the loss of their cultural identity. The development model and oil company practices prevalent in the region are incompatible, he argued, with the survival of the Sikuani people.

b) Environmental aspects

This is one of the most complex themes. A great deal of testimony was gathered by the communities, but technical evidence of water contamination is difficult and costly to obtain, since, among other things, it involves conducting tests at remote sites. Furthermore, there is little if any benchmark data available from before oil production began. Finally, the effects of contamination do not generally manifest themselves until several years after it has occurred.

Members of the Canadian delegation who attended the hearing committed themselves to contacting Canadian labs and specialists with a view to ensuring that these tests are carried out.

Professor Oscar Vanega, an oil geologist at the Universidad Industrial de Santander, explained the hydrodynamic processes operative in the region of the Rubiales, Pirriri, and Quifa oil fields. It is the hydraulic structure of the region that allows the wells to continue producing, since groundwater flow into the oil deposits maintains constant upward pressure. This water, however, comes directly from the Guaviare River, and Professor Vanega explained that continual increases in production are diminishing water flow in the river over the medium to long term. The oil wells in the area are, after all, pumping out a product that is 90% water prior to separation and processing. The witness stated that desertification is already evident in the region, as several rivers have dwindled down to very low levels.¹²

Another source of concern is represented by the production water itself, which is dumped directly into watercourses or used for dust abatement along tank truck routes.

The Office of the Auditor General, in its 2011 report on the partnership agreement between Pacific Rubiales and Ecopetrol,¹³ notes that the dumping of production water into the Rubiales Creek exceeds the limits permitted by environmental license no. 2355 of 2007. The same report notes the presence of solid waste, evidently due to the dumping of improperly treated production water.

On April 19, 2012, the Colombian government rejected a permit application by the company in a 120-page document which, echoing the allegations of many of the region's residents, takes note of various technical lapses.

Another worry, this one both environmental and territorial in nature, concerns recent announcements of large-scale land purchases. In 2012, PRE announced in a press release¹⁴ that it would purchase 50,000 hectares for megaplantations of eucalyptus and African palm for Pacific Green, a company in PRE's Blue Pacific consortium.

¹² Original testimony, online at <http://youtu.be/uDRpUlsZbYs>.

¹³ "Auditoría especial a contrato asociación riesgo rubiales gestión aguas asociadas de producción de Ecopetrol - Pacific Rubiales – 2011," Contraloría General de the Nación.

¹⁴ <http://www2.prnewswire.com.br/releases/es//Pacific-Rubiales-ofrece-actualizaci%C3%B3n-operativa-al-cierre-de-sus-actividades-de-exploraci%C3%B3n-y-desarrollo-del-2012/33177>.

c) Economic aspects

Pacific Rubiales, via its subsidiaries operating in the region (Pacific Stratus and Meta Petroleum), has signed partnership agreements with Ecopetrol, the Colombian state-owned company. Under these contracts, Ecopetrol grants concessions on oil fields in exchange for a royalty percentage based on total output. On March 14, 2013, a dispute as to the quantity of crude owed to Ecopetrol resulted in a judgment by the arbitration court of the Bogotá Chamber of Commerce in favour of Ecopetrol.

Pacific Rubiales initially refused to pay the award, threatening to appeal to the CCFTA arbitration mechanism. After a skirmish played out in the media¹⁵ and the Senate,¹⁶ Pacific Rubiales conceded defeat. On April 15, Senate Commission no. 5, which is responsible for natural resources, inaugurated a debate on the renewal of the partnership agreement which would assign the operation of the Quifa and Rubiales oil fields to Pacific Rubiales for an additional 25-year term. During this session, a group of senators announced the formation of a committee opposed to the renewal of the agreement, which ends in 2016. The next day, April 16, PRE announced that it would pay Ecopetrol the 1.6 million barrels in dispute.

This is indicative of a larger problem having to do with production accounting. The Office of the Auditor General, in a 2009 report,¹⁷ expressed concern that the Colombian government was inadequately equipped to measure crude petroleum production, and that it had to rely on the figures provided by the mining and oil companies in order to calculate royalties. A 2012 access to information request¹⁸ confirmed that there are only nine engineers and two technicians assigned to make these measurements for the whole country. There was only one engineer assigned to measure production for the hundreds of wells in the department of Meta.

For proof of these flagrant lapses in accounting, one need only compare the figures published by the Department¹⁹ with those provided by Pacific Rubiales in its production reports²⁰ to investors. The result is a set of disparities totaling in excess of 10,000 barrels/day for the whole country.

¹⁵ Statement by Nestor Humberto Martínez, counsel for PRE and former minister of justice, on Bluradio, 14 March 2012, <http://www.bluradio.com/22773/pacific-rubiales-no-le-pagara-ecopetrol-abogado-nestor-humberto-martinez>; response from the Minister, who terms PRE's threats "unnecessary," in "Gobierno responde a la 'amenaza' de Pacific Rubiales," online at http://economia.terra.com.co/noticias/noticia.aspx?idNoticia=201110260232_TRC_80392134.

¹⁶ "Pacific pagará a Ecopetrol por mayor producción en Quifa," *Portafolio.com*, 16 April 2013, online at <http://www.portafolio.co/negocios/pacific-pagara-ecopetrol-mayor-produccion-quifa>.

¹⁷ "Informe de auditoría gubernamental con enfoque integral modalidad regular ministerio de minas y energía vigencia 2009," Contraloría General de la Nación, 2009.

¹⁸ Access to information request no. 2012010241, filed 24 February 2012 with the Department of Mines and Energy.

¹⁹ Department of Mines and Energy, Hydrocarbons Division, Energy Information System, "Producción fiscalizada de petróleo por contrato (barriles por día calendario – BPDC)," online at <http://www.minminas.gov.co/minminas/downloads/UserFiles/File/hidrocarburos/estadisticas/Produccion/a%20diciembre%202012/Produccion%20de%20Crudo%20por%20Contrato%20%40%202012.pdf>; "Producción fiscalizada de petróleo por campo (barriles por día calendario – BPDC)," online at <http://www.minminas.gov.co/minminas/downloads/UserFiles/File/hidrocarburos/estadisticas/Produccion/a%20diciembre%202012/Produccion%20de%20Crudo%20por%20Campo%20%40%202012.pdf>.

²⁰ "FORM 51-102F3, MATERIAL CHANGE REPORT," 14 March 2013, reporting production for 2012.

Oil field	Barrels/day according to the Department	Barrels/day according to Pacific Rubiales	Difference
Cubiro de Allange	4.488	2.196	2.292
La Creciente-Pacific Stratus	28	10.864	-10.836
Abanico-Pacific Stratus	1.375	1.584	-209
Dindal	649	1.130	-481
Cajua	0	926	-926
TOTAL	6.540	16.700	-10.160

d) The Media

In 2009, Hector Rodriguez, director of the online economic news portal Primera página, revealed a scandal involving Coalcorp, a company listed on the Toronto Stock Exchange, which involved a \$161 million lawsuit against five of its chief executives for a series of irregular transactions taking place between 2005 and 2008. Three of the men accused are shareholders and officers of Pacific Rubiales: Serafino Iacono, José Francisco Arata, and Miguel de la Campa. Mr. Rodriguez reported in a 2009 article “that they were fired in 2008, whereupon the company commissioned Kroll to conduct an outside investigation.”²¹ The accusations include the purchase of a yacht as well as excessive use of the corporate jet. The accusations proved well-founded: In 2010, Mr. Iacono sued for defamation in a Colombian court, but lost the case.

In 2011, Mr. Rodriguez published the results of other investigations, including one about Allange (a Pacific Rubiales company operating in Colombia), stating that 40 managers had been fired in 2010 for inflating figures. This revelation caused the company’s stock to plummet by 70%. Mr. Rodriguez was then sued in a U.S. court for provoking “economic panic.” The Colombian Foundation for Freedom of the Press (FLIP) denounced what it termed an attack on press freedoms.²²

In another case, the online newspaper La Silla Vacía denounced the fact that a press agency working for Pacific Rubiales had contacted it to commission a positive piece on the company, and had expressed surprise at the paper’s refusal, stating that other media had been willing to sell anonymous infomercial space.²³

Since 2011, Pacific Rubiales has made massive investments in its media profile, spending \$30 million on advertising (83.3% of its social responsibility budget).²⁴

²¹ Information taken from “Avalancha de crudo y demandas,” *EI Espectador.com*, 2 April 2012, online at <http://www.elespectador.com/economia/articulo-336096-avalancha-de-demandas-y-crudo>.

²² Ibid.

²³ “Kien&Ke no es el único medio que ‘Pacifizó’ su cubrimiento,” *La Silla Vacía*, 22 October 2012, online at <http://www.lasillavacia.com/historia/kienke-no-es-el-unico-medio-que-pacifico-su-cubrimiento-36715>.

²⁴ Information compiled by Corporación CHOAPO, online at <http://www.pasc.ca/en/article/pacific-rubiales-corporate-social-responsibility>.

e) Trade union and labour rights

The conflict between the employees of PRE, its company Meta Petroleum, and its subcontractors led to a series of mobilizing efforts, including blockades and a Permanent Assembly process carried out from July to October 2011. The workers' demands dealt with working conditions and abusive subcontracting, which is used for PRE's core operations and not only for auxiliary work.²⁵

According to PRE's 2011 social responsibility report, eight of its subcontractor companies had to pay fines for violations of labour rights.²⁶ Since PRE recognizes this in its own report, the matter of unacceptable working conditions, which led to the employee mobilization, is now clear.

The first accusation concerns the non-recognition of the USO as part of the process of resolving the labour conflict. Camilo Acero, legal counsel for the Meta section of the USO, presented a set of documents at the hearing proving the existence of a negotiation process between the company and the USO. These documents include copies of emails from PRE's director for social responsibility to his employers, mentioning the agreements of July 19, 2011 in which PRE undertook to begin the bargaining process and to refrain from taking reprisals against workers who had participated in the blockades.²⁷

Faced with the company's inaction, the 3,300 USO members mobilized again in September, leading to a new agreement on September 20, 2011.²⁸ On October 6, however, Pacific Rubiales announced the end of the conflict and the signing of an agreement with the UTEN, which, as discussed above, had just signed up 700 direct employees of Meta Petroleum.²⁹ Subsequently, PRE refused to negotiate with the USO on the subject of the working conditions endured by the 14,000 subcontracted employees, including 3,300 union members. It should be noted that in Colombia, several unions may coexist in a single company. In that case, the company has to negotiate with all of them and is not allowed to play favourites. Pacific Rubiales stated publicly in a report that given the impossibility of reaching an agreement with the USO within the allotted time, the UTEN presented itself as a viable alternative.³⁰

The second charge concerns unfair labour practices aimed at expelling USO from Campo Rubiales. In the months following the conflict, USO membership at the site went from 3,301 to zero because of these practices. One tactic, mentioned in the lawsuit filed by USO against PRE in May 2013, was to terminate various outsourced contracts in order to get rid of the USO members who worked for those companies. Thus, Meta Petroleum and Montajes JM ended a dozen contracts between October and November 2011, and proceeded to sign new contracts for the same jobs subsequently. According to the USO, the purpose of terminating these contracts was precisely to replace the subcontracted employees. On this score, a number of workers filed complaints concerning the fact that when they returned to work, they were asked to sign a document that essentially amounted to severance without

²⁵ Factual summary, 2011, <http://www.pasc.ca/en/action/updates-conflict-canadian-oil-company-pacific-rubiales>; video of Senator Robledo's testimony at the hearing, <http://www.pasc.ca/en/action/updates-conflict-canadian-oil-company-pacific-rubiales>.

²⁶ Pacific Rubiales Energy, *Sustainability Report 2011*, p. 45, online at http://www.pacificrubiales.com/images/stories/pacificrubiales/archivos/repots/2011/anual%20report/sostenibilidad/5490-RS-2012_V-08_Ingles_LowRes.pdf.

²⁷ There is a reference to the agreement of 19 July 2011 in "Tras protestas, Pacific Rubiales anuncia restablecimiento de producción," *EI Espectador.com*, 20 July 2011, online at <http://www.elespectador.com/economia/articulo-285814-tras-protestas-pacific-rubiales-anuncia-restablecimiento-de-prod>.

²⁸ USO, PRE, and Government of Colombia, "Actas de acuerdo del 20 y 21 de setiembre para hacer levantamiento de las jornadas de protestas del 19 de setiembre de 2011."

²⁹ "Adendo No. 1 al Acta de acuerdo para la normalizacion laboral en Pacific Rubiales," 6 October 2011, http://www.utencolombia.com/files/adendo_minuta_de_acuerdo_pacific_-_uten.pdf.

³⁰ Pacific Rubiales Energy, *Sustainability Report 2011*, note 26 *supra*, pp. 44–6.

benefits.

Another unfair labour practice consists of a complex “veto” mechanism designed to prevent USO members or alleged sympathizers from entering the Campo Rubiales site. Workers meeting the official conditions for entry to the site (day labourer contract, pension and insurance membership, verified health status) have been sent home by security guards working for the company Servision, under contract to Meta Petroleum, at the roadblock situated at kilometre 132, which is officially operated by the national police. The company has repeatedly denied having set up a veto system, but workers continue to complain of this practice.

In a bizarre development, Diego Rivera and José Naranjo, who work for the subcontractor DUFLO and are associated with the USO, will be paid to stay home for more than nine months. DUFLO has stated in writing that for reasons “beyond its control,” it cannot allow them to go to their workplace.

Even more astonishing is the fact that in order to obtain a contract, a person has to be registered on the town “entrepreneurs list,” which provides the company with a list of local job applicants. In a memo from January 2, 2013, Cesar Eladio Velásquez, social responsibility coordinator for Meta Petroleum, asked the committee to remove two names on the list, and the committee did so. The two people in question were the only two USO affiliates on the list.

As a result of these practices, corroborated by numerous witness accounts, the USO received a wave of applications for disaffiliation. Hundreds of its members told the union they had been pressured to choose between the union and their job.

f) Criminalization

Criminalization is a process designed to place an organization or social movement outside the law. It begins with tactics aimed at depriving it of its public legitimacy, and goes on to entangle it in legal proceedings. In extreme cases, murders may be blamed on the organization, with the real perpetrators left unpunished.

Because of the dangers of being painted as a criminal organization, the USO is obligated to defend itself publicly whenever it is libeled. One of the worst cases took place in December 2012 when Milton Rivas, a USO member, was found shot to death in Puerto Gaitán. The next day, the papers reported that Colonel Romero of the departmental police had stated that Rivas had filed a complaint against colleagues, including USO members, who had allegedly threatened him. True or not, a statement like this, published only hours after the assassination and with the investigation barely underway, had no purpose other than to discredit the USO. The union was forced to close its Puerto Gaitán office in the following days.

Attorneys for the Committee in Solidarity with Political Prisoners (CSPP) have taken charge of the hundred or so criminal cases in which the USO is involved, typically involving disputed interactions with security forces. In August 2012, after months of waiting, the Fiscalía Nacional – the equivalent of the Attorney General in Canada – issued decision 1426 ordering the centralization at the Colombian Human Rights Office of all cases involving the USO, to ensure that local or military courts would not simply dismiss cases of alleged abuse or arbitrarily convict USO members.

Despite this order, few cases have been transferred to the Human Rights Office. In one case, Yeison Vasquez complained that he had been permanently injured by a non-lethal bullet fired by the riot squad during demonstrations on July 19, 2011. The judge of the military court (which normally has

jurisdiction over complaints against the police or the army) dismissed the complaint, ruling that there was no evidence as to whether or not Mr. Vasquez had been “passive” at the time of impact.³¹

The CSPP legal team also denounced several arbitrary detentions of USO leaders. Alexander Rodríguez, who gave testimony during the hearing, told how on October 5, 2012 he and his bodyguard, York Valencia, were on their way to a peaceful assembly at the exit from the Puerto Gaitán urban zone when they saw tear gas bombs being fired to disperse the crowd. They hid behind the closest gas station to avoid the tear gas but were encircled by twenty members of the riot squad. One of the officers shouted, “Where are those USO bastards? We’re gonna kick your asses!”³² Alexander recalled that after being beaten, insulted, and spit on, they were threatened: “Look me in the eyes, you guerrilla fuck. We have orders to kill any USO leader who makes trouble in Puerto Gaitán.”³³ They were charged with obstructing a public thoroughfare and assaulting a police officer, yet they spent one and three weeks, respectively, recovering from their injuries. There is no medical evidence of any injuries sustained by the police. The charges against Rodríguez were finally dropped and his complaint was referred to a military court.

USO leaders are not the only victims of criminalization. In March 2012, several members of the community signed an agreement with Pacific Rubiales, which was later used as evidence against them in a case involving charges that they had blocked the road during a rally.

During events like the hearing on July 13, 2013, threats and intimidation generally increase. On June 21, 2013, during a preparatory trip to the region, CSPP lawyers and USO members were stopped at a police checkpoint and their identity documents were photographed (an illegal practice in Colombia). When they tried to take back their documents, the officer shouted, “Don’t hit me, don’t hit me!” Suspecting a case of entrapment, they left the site. The day after leaving meetings related to the preparatory trip on June 24, Hector Sánchez, a community leader and USO member, received an envelope containing a piece of paper depicting a cross and the message, “death to the USO traitor.”³⁴

g) Militarization

Colombian senator Alexander López has attested to and publicly denounced the existence of a checkpoint between kilometres 128 and 132 on the public road leading to the Pacific Rubiales oil field. The road is also used by residents of nearby villages and Native reserves.

On July 12, 2012,³⁵ Mr. López made an initial attempt to get through the checkpoint and was able to determine, during an exchange with soldiers, that Pacific Rubiales had given the orders to block the road. Later that year, on November 29, Mr. López was accompanying a USO mission to meet with the workers and encountered the same situation.³⁶

³¹ Judgment no. 178 of 2013 in the court of military criminal justice of the city of Villavicencio, department of Meta.

³² Complaint filed by Alexander Rodríguez with the Attorney General.

³³ Ibid., remarks by patrolman Oscar Paipa as reported in the complaint.

³⁴ See, on this subject, <http://www.pasc.ca/fr/action/menace-contre-un-leader-communautaire-member-de-la-uso-suite-%C3%A0-lhearing-contre-la-p%C3%A9trole%C3%A8re> original <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CC4QFjAA&url=http%3A%2F%2Fcspresopoliticos.com%2Findex.php%2Fjoomla-stuff-mainmenu-26%2Fnews-mainmenu-2%2F593-denuncia-publica-amenazan-a-testigo-de-la-audiencia-petrolera-de-puerto-gaitan-meta&ei=vR38UefcN4um9gTskYHQCA&usq=AFQjCNFtbEGlpuZEB4w0zyvdu3v3w5DBA&sig2=PlI4XLAT53eeEailQ9frlQ&cad=rja>.

³⁵ “Ejército Nacional cumple órdenes de Pacific Rubiales,” <http://www.youtube.com/watch?v=XcqBDAm57kk>.

³⁶ http://www.youtube.com/watch?v=vP-L7wdU_nA.

Mr. López asked the Department of Defence to provide copies of any agreements signed between law enforcement agencies and Meta Petroleum, the PRE-related company operating at Campo Rubiales. The Department, in response, mentioned the existence of at least four agreements between the company and the police or the army, but refused to provide copies thereof.

In 2012, the CSPP filed access to information requests with the municipal, departmental, and national authorities, including the departments of transportation and defence, to explain the nature of the roadblock. The response from the Meta police states that the police do in fact have a roadblock at kilometre 132, near the entrance to the oil fields, for the purpose of ensuring public safety. "At the site, Pacific Rubiales, through its intermediary, Servision Colombia, is exclusively conducting checks of vehicles and persons working in its fields. The national police are supporting this effort as requested, since on several occasions contract workers or subcontractors have shown disrespect for the security guards, while at other times unscrupulous persons have attempted to infiltrate the company for reasons other than work."³⁷ In the days leading up to the hearing on July 13, 2013 in Puerto Gaitán, witnesses from the region observed that the roadblock had been removed.

The CSPP also condemned statements by members of the riot squad in regard to the demonstrations of July 2011, to the effect that they had been offered free rides and food by Pacific Rubiales, in direct violation of the principle of impartiality which must govern the actions of law enforcement officials during labour conflicts.

Conclusions of the Tribunal concerning Pacific Rubiales

Among the considerable number of charges laid against Pacific Rubiales Energy were the following systematic violations: violation of trade union rights; militarization of the oil fields; violation of constitutional rights and unethical practices; violation of collective rights; violation of the right to a healthy environment; and abuse and violation of environmental laws. Especially noteworthy was the accusation that company had taken advantage of a lack of government scrutiny to avoid paying royalties while taking public resources.

To elucidate how the multinational is acting illegitimately in concert with the Colombian government, the discussion emphasized the persecution and criminalization of organized labour by both legal and illegal groups, including the military, the police (particularly ESMAD, the mobile riot squad), and paramilitary groups.

One of the most visible instances of rights violations by Pacific Rubiales is that of the Sikuani people, whose land outside the town of Puerto Gaitán, known as "La Campaña," is being affected by the multinational's oil exploration and production activity. There has been no prior consultation with the Native communities. The appearance of chronic skin diseases and other ailments strongly suggests that the water supply is being polluted.

³⁷ File no. 187 PURUB-DEMET to Liria Manrique, CSPP member, in response to her access to information request, 3 October 2012; document presented at the hearing.

In conclusion, the jury convicted the Canadian oil company Pacific Rubiales Energy and its contractor companies in the department of Meta for violations of several human rights:

- environmental rights;
- trade union rights;
- the right of public assembly;
- attacks on the dignity and lives of workers and communities, having instigated targeted assassinations of Native, trade union, and civil society leaders;
- the right to food, in that the company circumvented collective rights to land, natural resources, and participation, most notably by violating the principle of prior consultation with local communities;
- cultural, spiritual, and ancestral rights, through denial of the First Peoples' right to autonomous development;
- environmental law, through the enclosure and encirclement of rivers and watercourses, causing irreversible damage to ecosystems, plants, and animals.

Pacific Rubiales Energy was also found guilty of financial crimes, including tax evasion and non-payment of taxes and dividends to the Colombian government, as well as interference in public policymaking to benefit its own interests.

The jury also convicted the Colombian government of giving over large areas of collectively-owned land to transnational companies, thus compromising the country's security and sovereignty; and for systematically violating the human right to life, health, food, organization, public assembly, and work, as well as the freedom of movement and the right of communities to remain on their own land.

Furthermore, the Colombian government was found guilty of violating: the rights of Native peoples and peasants, the right to water, the right to a healthy environment; of helping to organize and strengthen paramilitary groups with a view to bolstering the extraction and exploitation of natural resources; of impoverishing broad segments of the population; and for violating international conventions on human rights and people's rights.

4. Summary of delegation activities

Meetings with the USO

Upon arriving in the capital, Bogotá, the delegation was met by members of the USO national executive. Colombia's largest oil industry union, the USO is a member of the labour federation known as the Central Unitario de Trabajadores de Colombia (CUT).

The USO was founded in 1922 during a strike pitting Colombian workers against Tropical Oil Company. In 1948, after decades of union struggle, the USO succeeded in forcing the company to restore its concessions to the government, leading to the creation of the Colombian national oil company, Ecopetrol. Since the very beginning, USO members have been targeted for brutal repression by both the government and the far-right paramilitaries. According to the UNDP, 2,800 Colombian trade unionists have been assassinated since 1984, while 216 have been disappeared and 83 tortured. The same report states that 94.4% of these crimes have yet to be punished.³⁸ Speaking in Montreal in May 2013, USO president Rodolfo Vecino stated that 108 leaders of his union have been assassinated and that an additional 500 members have had to move or go into internal exile to protect their families' lives.³⁹

Following the energy sector reform of 2003, the USO went on strike in an attempt to halt the privatization of the publicly owned oil company. Unfortunately, these actions failed to halt the company's progressive dismantlement through public-private partnerships with foreign oil companies. These companies being champions of outsourcing (through agencies offering short-term contracts), the USO has been losing ground in the oil fields, and working conditions have correspondingly deteriorated. In addition to unfair labour practices, the union has faced a fierce mudslinging campaign in the media, where its members have been accused of guerrilla activity and crime.⁴⁰

Meeting with the Instituto Nacional Sindical (INS)

The education, development and research arm of the National Trade Union Institute (CED-INS) was created in 1965 to support research and popular education for Colombian unions. The Canadian delegation met with INS director Alejandro Mantilla, who gave a presentation on the challenges facing social movements that are obliged to function within an extractivist development model. The INS makes no bones about the imperative of reconciling environmental, union, and Native struggles. Its goal is to facilitate the transition towards a post-extractivist development model by bringing these three social movements together. It argues that all their demands – concerning defense of natural resources, workers' rights, and improved living conditions for the majority, as well as the recognition of First Peoples' collective rights to their ancestral territories – must be reconciled. For these reasons, it does not radically oppose the industry for the sake of protecting the environment and safeguarding

³⁸ *Reconocer el pasado, construir el futuro: Informe sobre violencia contra sindicalistas y trabajadores sindicalizados 1984-2011*, United Nations Development Programme, PNUD Colombia, online at http://www.pnud.org.co/2012/informe_sindicalismo.pdf.

³⁹ Public presentation, "Canada-Colombia: Mines, pétrole et résistances," organized by PASC, Centre St-Pierre, Montreal, 2 May 2013.

⁴⁰ www.usofrenteobrero.org/.

traditional ways of life, but nor does it encourage full-speed development of extractive industries in the narrow interests of job creation.

As the INS analyzes the situation, to devise a single development model in which workers, peasant communities, Native sovereignty, and a healthy environment can all coexist will necessarily involve a process of dialogue and self-examination on the part of each of these movements. Mr. Mantilla stressed that there are already points of convergence; all agree, for example, that the production of needless luxury items (e.g., gold and diamonds for jewelry) must be abandoned and that the economy must be redesigned for the production of staple goods for the majority.⁴¹

Luncheon meeting with representatives of the “People’s Congress”

To learn more about the context in which Colombian social movements currently operate, the Canadian and Québec delegates took part in a luncheon meeting with representatives of various sectors of the “People’s Congress” (Congreso de los Pueblos).

In 2008, the indigenous movement in the department of Cauca launched the “Minga” Movement for Social and Community Resistance. This movement put out a call for unity and social mobilization to defend the rights of the Colombian people, and was joined by organizations of peasants, women, Afro-Colombians, youth, students, workers, human rights advocates, and others. The Minga quickly went national in scope, becoming an umbrella forum for coordination among its constituent social movements. In 2010, the Minga came up with the idea of drafting a blueprint for a new country in which everyone can have a decent life. The idea was, in essence, to make law from the ground up. As part of this grassroots lawmaking process, participating organizations produced a body of people’s law known as “popular mandates.” An outgrowth of this process was the People’s Congress.

The Congress brings together 700 grassroots organizations from all over the country with a clear commitment to applying popular mandates for the defense of rural and urban sovereignty. In October 2012, this exercise succeeded in mobilizing some 200,000 people in 25 regions of Colombia around the theme “Land, Territory, Sovereignty.” This year, the participating sectors mobilized around a “Congress for Peace” which, in April 2013, brought together 20,000 delegates in what was described in the following terms: “a dialogue of many voices which, besides the governments and the insurgents, includes proposals and decisions by rural and urban communities, churches, universities, political actors, economic actors, and every sector of society that has a stake in a negotiated political solution to the Colombian armed conflict and in building a decent life for all.”⁴²

Meeting with the Unidad Nacional de Protección (UNP)

Created in 2011, the National Protection Unit (*Unidad Nacional de Protección*–UNP) has a mandate to establish, coordinate, and implement measures to protect the lives, persons, freedom, and safety of those who are directly threatened because of their work as human rights advocates or for any other reason.

⁴¹ <http://www.cedins.org/>.

⁴² <http://congresodelospueblos.org/>.

Accompanied by Cesar Loza, USO Vice-President for International Affairs, the delegation met with UNP staff to support the demand for protection of members of the USO local in the department of Meta.

Due to the tensions in the region, and in particular following the December 2012 assassination of trade unionist Milton Rivas, the USO was forced to close its Puerto Gaitán office. UNP protection would allow the USO to reopen its office in this town and would provide for the safety of union activists.

When Hector Sánchez, a community leader and USO activist in the Puerto Gaitán region, received death threats following his testimony at the preparatory hearing on the theme of oil and gas in July 2013, Canadian delegation members immediately contacted UNP representatives and the Canadian embassy to demand that Mr. Sánchez be given protection without delay. This action was a success: embassy staff met with the USO national executive and Mr. Sánchez in the days that followed to support their demand for protection.

Meeting at the Canadian embassy in Bogotá, July 15, 2013

The day after the preparatory hearing, on July 15, the Canadian delegation met with four Canadian embassy officials in Colombia, including Tarik Ali Khan, Director of International Cooperation for Colombia, who stood in for Ambassador Tim Martin. The delegates reported what they had learned about the Canadian company's actions and called on the embassy to lobby the Canadian government for a regulatory framework that would require Canadian companies to abide by Canada's international human rights commitments. The embassy representatives expressed concern for the delegation's report. They promised to relay it to the ambassador without delay and to convene a meeting with executives of Pacific Rubiales Energy, although they specified that they do not have much influence.

Press Conference in Bogotá, July 16, 2013

Two days after the hearing, the Canadian delegation held a press conference in Bogotá that was attended by fifteen Colombian media outlets, including all the major media. The delegation used the opportunity to detail the Canadian company's violations of social, environmental, and labour rights as well as the rights of the affected communities. The delegation members called on the Canadian government to develop a regulatory framework that would require Canadian companies involved in overseas projects to adhere to a code of conduct consistent with international human rights conventions, and to obey the laws of the countries where they operate. The delegation also called on the directors of Pacific Rubiales Energy to desist from these violations. Finally, they called on the Colombian government to protect witnesses who testified at the preparatory hearing against the oil company, since they are at risk of reprisals.

- ***See Appendix 2 for the Press Review of the event.***

5. Solidarity work in Canada

Disruption of the PRE annual meeting of shareholders, May 30, 2013, Toronto

On May 30, 2013, simultaneous with the filing of the USO lawsuit against Pacific Rubiales Energy, activists from the Mining Injustice Solidarity Network entered the Kensington Room at the King Edward Hotel in Toronto, where PRE was holding its annual shareholders' meeting. The activists handed out copies of the USO press release and announced that a lawsuit was being filed for violations of trade union rights.

One of the activists was given the floor and asked for the company's official position on freedom of association. PRE's directors stated that the USO's allegations are false and that the company has not fired 3,000 employees as charged. Their remarks made it clear that they knew the details of the lawsuit, although they made no mention of it to the shareholders. They asserted that 57% of their workers are affiliated with the UTEN and described the USO as a violent union whose members have attacked their employees. When questioned about the ongoing debate in Colombian Senate Commission No. 5, and the growing opposition to the renewal of PRE's Quifa and Rubiales concessions, the directors minimized the impact of such a possible loss, stating that these fields will represent only 5% of their total reserves in 2016.

While the meeting went on, other activists picketed in front of the hotel entrance.⁴³

Press conference to announce the final judgment of the People's Tribunal on the Natural Resource Extraction Industry in Colombia

In August 2013, the Québec organizations that participated in the Canadian delegation to Colombia held a press conference in Montreal to present the evidence and the final judgment handed down on Pacific Rubiales Energy in Colombia.

The CEP held another press conference in September 2013, taking advantage of a visit to Canada by the President of the USO to unveil its analysis of the activities of PRE in Colombia and, in so doing, to state that it is holding the Canadian government responsible for this company's overseas activities.

⁴³

Source: Mining Injustice Solidarity Network.

Coming in April 2014

Permanent People's Tribunal on Canadian Mining Companies: Montreal, 2014

A group of Québec and Canadian organizations, PASC among them, is actively working to organize a session of the Permanent People's Tribunal to be held in 2014 in Montreal. This tribunal will deal with the activities of Canadian mining companies. Its objectives are as follows:

Main objective

The main objective of the tribunal on the Canadian mining industry is to publicly judge the Canadian government for its role and responsibility in the rights violations committed by the Canadian mining industry around the world.

Subsidiary objectives

- To offer communities affected or threatened by Canadian mining megaprojects and their allies an independent forum in which to assert their rights.
- To denounce the impunity enjoyed by the mining industry, and in particular the lack of accountability mechanisms and access for victims to the Canadian legal system.
- To collectively adopt the tools and mechanisms of human rights advocacy.
- To raise awareness among Québécois and Canadians to the social and environmental conflicts caused by Canadian mining megaprojects, by publicizing the tribunal's indictment and judgment.
- To actively involve Québec and Canadian civil society organizations and the public at large in this social justice initiative to ensure that it achieves far-reaching resonance in Canada.

This initiative is an opportunity to launch a broader campaign on the activities of Canadian companies abroad and to reach out to a large pool of Canadian organizations.

Appendix 1: Participating organizations and delegates

- Amir Khadir, Québec Solidaire member of the Assemblée nationale du Québec.
- Angela Adams, Fort McMurray Local Secretary, Communications, Energy and Paperworkers Union of Canada (CEP).
- Armando Sanchez and John Barber, delegates, Colombia Action Solidarity Alliance (CASA)
- Blandine Juchs, Eve-Marie Lacasse, Florence Tiffou, Leah Gardner, Leila Celis, and Maude Chalvin, Projet Accompagnement Solidarité Colombia (PASC).
- Constance Vaudrin, delegate, Americas Policy Group (APG) of the Canadian Council for International Corporation (CCIC) and member of the Board of Directors, Comité pour les droits humains en Amérique Latine (CDHAL)
- Dave Coles, President, CEP
- Diana Potes and Eva Mascolo Fortin, delegates, CDHAL.
- Gilles Cavin, member of the Executive Committee, Québec Solidaire.
- Giuliana Fumagalli, delegate, Canadian Union of Postal Workers (CUPW).
- Guy Martin, legal counsel, Confédération des syndicats nationaux (CSN).
- Sheila Katz, Coordinator, CEP delegation.
- Terrylynn Brant, Women's Representative, National Aboriginal Peoples' Network of the National Human Rights Committee, Public Service Alliance of Canada (PSAC).

Appendix 2 Press review of the hearing held at Puerto Gaitán, Meta

This press review gives an overall picture of the media coverage of the event.

COLOMBIA

July 10

Noticiero del Llano: [“El sábado audiencia pública en Puerto Gaitán sobre situación petrolera”](#)

July 11

RCN La Radio: [“Trabajadores realizarán este fin de semana en audiencia petrolera”](#)
Las2Orillas: [“El gran juicio contra Pacific Rubiales”](#)

July 12

El Espectador: [“ONG citó a juicio ‘ético y político’ a Pacific Rubiales”](#)

July 13

Telesur: [“Colombianos comienzan juicio ético contra multinacional Pacific Rubiales”](#)
CAJAR: [“Este fin de semana en Puerto Gaitán: Juicio contra Pacific Rubiales”](#)
CAJAR: [“En vivo: Juicio a Pacific Rubiales desde Puerto Gaitán”](#) (video, 42:44)
Actualidad Étnica: [“En Puerto Gaitán transcurre Juicio contra Pacific Rubiales”](#)
Partido Comunista de Colombia: [“Exigirán la expulsión del país de la petrolera Pacific Rubiales”](#)
Periódico de Meta: [“Organizaciones populares harán ‘juicio’ a Pacific Rubiales”](#)

July 15

Noticiero del Llano: [“Se realizó el juicio ético contra la Pacific Rubiales en Puerto Gaitán”](#)
Colombia Informa: [“El 70% de las empresas extractivas están registradas in Canadá, un paraíso”](#)
Las 2 Orillas: “Pacific Rubiales y el juicio en Puerto Gaitán” (Pacific Rubiales’ reaction to the preparatory hearing)
Ola Política: [“Audiencia y juicio a Pacific Rubiales”](#)
Asociación Distrital de Educadores: [“Sindicatos de Canadá examinan conducta de Pacific Rubiales en Colombia”](#)
Noticias de Villavicencio: [“Nueva audiencia contra petroleras en agosto en Bogotá”](#)

July 16

Asociación de Institutores de Antioquia: [“Juicio ético a Pacific Rubiales y a petroleras de la Orinoquia”](#)
Vox Populi: [“Exigen la expulsión del país de Pacific Rubiales tras juicio ético y político”](#)
El Espectador: [“ONGs preparan juicio ético contra Pacific Rubiales”](#)

July 17

HispanTV: [“Denuncian a la multinacional petrolera canadiense Pacific Rubiales en Colombia”](#) (video, 2:52)

CAJAR: [“Pruebas contra Pacific Rubiales serán presentadas ante instancias internacionales”](#)

July 18

Noticiero del Llano: [“Aumenta la controversia entre Pacific Rubiales y trabajadores sindicalistas”](#)
(reprint of the article published in CAJAR on 17 July, obtained from USO Prensa)

CANADA

July 9

CNW (Canada Newswire): (Source: CEP)

[“Labour leaders participate in hearing against Canadian oil giant in Colombia this week”](#) (EN);

[“Des dirigeants syndicaux participent cette semaine à des audiences contre un géant canadien du pétrole en Colombie”](#) (FR)

July 12

PR Newswire: [“Colombian People’s Tribunal to try Canadian oil company”](#)

Press release (Source: CSN)

UNITED STATES

Wallstreet Journal Online: [“Labour leaders participate in hearing against Canadian oil giant in Colombia this week”](#)