

**Colombia Solidarity Campaign**  
**PO Box 8446, London N17 6NZ**  
[info@colombiasolidarity.org.uk](mailto:info@colombiasolidarity.org.uk)  
[www.colombiasolidarity.org.uk](http://www.colombiasolidarity.org.uk)

**Dr Mark Egan,**  
**Commons Clerk of the Joint Committee on Human Rights,**  
**Committee House,**  
**House of Commons,**  
**7 Millbank,**  
**London SW1P 3JA.**

28 April 2009

Dear Dr Egan,

***Submission to the Joint Committee on Human Rights:***

***Rio Tinto and the impact of the Mandé Norte/Murindó mining exploration project on indigenous Embera and Afrocolombian communities in the provinces of Choco and Antioquia, Colombia***

**Introduction**

Rio Tinto is one of the world's largest diversified mining companies, jointly listed on the London and Australian Stock Exchanges. London-listed Rio Tinto plc and Australian-listed Rio Tinto Limited have a joint Board and function as a single company.

Rio Tinto is currently associated with a highly controversial mining exploration project in Colombia: La Muriel Mining Corporation's Mandé Norte/Murindó project on the borders of the provinces of Choco and Antioquia in the north west of the country. Colombia Solidarity Campaign has been informed about the impacts of this project by the Comision Intereclesial de Justicia y Paz (Interchurch Justice and Peace Commission) in Colombia, which provides support and accompaniment to the communities affected by the project. The Comision Intereclesial de Justicia y Paz enjoys a close relationship with British development agency Christian Aid and with British-based human rights defence organisation Peace Brigades International. The Comision Intereclesial de Justicia y Paz is also well known to the British Embassy in Bogota.

On the strength of the testimony of the Comision Intereclesial de Justicia y Paz, the Colombia Solidarity Campaign believes that the Mandé Norte/Murindó project is having a serious, negative impact on human rights.

The Mandé Norte/Murindó project is being pursued on collectively-owned Indigenous and Afrocolombian land against the express wishes of the communities involved. It is alleged that it has been accompanied by intimidation, deceit, manipulation and falsification of community consultation procedures, militarisation, terrorisation and forced displacement of families. According to a written communication from Rio Tinto

on 27 February 2009, the company retains 'an option to joint venture with Muriel' though it currently has 'no active engagement in the Murindo project'.<sup>1</sup> At the company's London Annual General Meeting on 15 April 2009, the company's CEO Tom Albanese was happy to confirm the company's involvement but was unable to describe the exact nature of the joint venture and recommended contacting a company official in Chile to clarify the matter. In an informal conversation after the AGM, Mr Albanese suggested that the project's critics should be relieved that Rio Tinto is involved, as it is in his view exercising an improving influence on La Muriel Mining Corporation.

The headquarters of La Muriel Mining Corporation is in Denver, Colorado, USA, and it has offices in Medellin and Bogota in Colombia. The company's Director is Georges Juilland. The Juilland family own a number of mining companies in different countries – among them Panama-based Goldplata Mining International, which owns La Muriel Mining Corporation and Toronto-based Goldplata Resources, also active in Colombia<sup>2</sup>. In 2005, according to mining journalist John Chadwick, La Muriel Mining Corporation entered into an agreement for a 30%-70% joint venture with Rio Tinto<sup>3</sup>. Chadwick notes in an October 2008 article that "Muriel Mining ... negotiated an agreement with a major mining company [*presumably Rio Tinto*], which is earning a 70% interest in the property through work expenditures and a series of payments."<sup>4</sup> The Colombian Church organisation Comision Intereclesial de Justicia y Paz describes this as a 'shared risk agreement.'

## 2. Cerro Cara de Perro (Dog-face Hill)

The mining project is in an area declared a Forest Reserve by the Colombian Government in 1959. In 1970, Indigenous People obtained legal recognition of their territory, and in 2000 Afrocolombian people achieved recognition of their ancestral rights in the area. The land therefore legally belongs to these communities. The Murindó Indigenous 'Resguardo' (Reservation) is one of the largest in Colombia. 'La Rica' is considered a sacred place by the communities because it is there that the 'Jaibanas' send spirits to provide protection to the community.

## 3. Mineral potential and the mining project

Ingeominas, the Colombian Government's geological surveying office, investigated the mineral potential of the area in 1975 as part of a project financed by the United Nations. It found a large quantity of copper, molybdenum and, in places, gold. The survey was completed in the 1990s. The deposits are on the eastern slopes of a small mountain range north of the town of Murindó and about 165 kilometres north east of Medellin. The Phelps Dodge company, which owned the concession, sold it to La Muriel Mining Corporation in 2001. But only in 2005 did communities in the area learn that a number of companies wanted to exploit the area known as Cerro Cara de Perro (Dog-Face Hill). Exploration began against the wishes of local people and has caused a number of impacts on local people and the environment (see

<sup>1</sup> Email from Julie Dennis, Rio Tinto, to Digby Knight, 27 February 2009, 09.25

<sup>2</sup> *Goldplata, Big Plans*, John Chadwick, October 2008, in <http://www.infomine.com/publications/docs/InternationalMining/Chadwick2008ff.pdf>

<sup>3</sup> *Going for Gold in Guyane*, John Chadwick, in *International Mining*, December 2006

<sup>4</sup> *Goldplata, Big Plans*, John Chadwick, October 2008, in <http://www.infomine.com/publications/docs/InternationalMining/Chadwick2008ff.pdf>

section 5 below). No environmental impact study apparently exists.

#### **4. Lack of consultation**

Among other irregularities, the communities report that the people consulted by the mining company to obtain their consent to the project were bribed, threatened or do not live in the affected area. They allege that there has never been a proper consultation with the people who will actually be affected by the project. Members of low-income communities, they say, were pressured by company representatives to sign documents. Despite community demands, no discussions are taking place aimed at halting the project. Both the company and the Colombian Government claim that the consultation process was carried out according to the law. In January 2009, a delegation of Indigenous people met with the Human Rights Ombudsman to tell him that the consultation process was illegitimate. The disagreement about whether or not there has been legitimate consultation is central to the dispute and warrants independent investigation.

Colombian law requires 'consulta previa' (prior consultation) with Indigenous communities before major projects are carried out on their collectively owned lands. Colombia has not yet signed the United Nations Declaration on the Rights of Indigenous Peoples (see <http://www.un.org/esa/socdev/unpfii/en/drip.html>), which states (Article 8.1) that "Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture", which violation of Cerro Cara de Perro undoubtedly represents. Article 32.1 states that "Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources." Article 32.2 declares that "States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources." The United Kingdom is a signatory to this Declaration and, we would assert, therefore has a duty to ensure that companies listed on the London Stock Exchange respect the requirements of that Declaration. This should extend to their involvement as minority partners in joint ventures.

#### **5. Impacts to date on land and local communities**

Local communities allege that there have been multiple violations of human rights and Indigenous rights, including:

- Failure to recognise Indigenous and Afrocolombian territorial rights
- Militarisation of the zone to protect the interests of the mining companies, with illegal raids and use of hoods to hide the identity of agents, which has generated panic during military operations
- Use of apparatus which inhibits movement around the area and presents a threat to life and safety
- Continuous brutal intimidation of communities
- Forced displacements
- Local people have repeatedly had to suspend their daily work, with consequent economic losses
- Severe health impacts, including the deaths of four babies, which local people

believe to have been caused by disruption to people's means of livelihood and ability to travel within the zone of exploration and the stress caused by fear of soldiers and the consequences of violation of sacred sites

- Loss of primary forest (in which the mining camp has been set up and where soldiers are based)
- Profanation of the sacred hill, causing massive stress and uncertainty among the communities, for whom the hill restrains the spirits of evil
- The situation has led to suicides and suicide attempts because of the fear that what is sacred is being destroyed.

Despite repeated requests by local people, neither the company's owners nor the national government, who are responsible for what is going on, have yet visited the area to engage in dialogue.



Deforestation



Militarisation

## 6. Legal situation

A number of separate legal actions have been taken in Colombia with the aims of protecting the lives and livelihood of the local people, ensuring a legal consultation process is carried out, stopping deforestation, demilitarising the area and getting the company to leave. A case may also be made before the Interamerican Commission. In response, the company has attempted to discredit local communities, the Comision Interclesial de Justicia y Paz and the international organisation Peace Brigades International, through paid advertisements in the press and communication with the President of Colombia. The company does not recognise the legitimacy of the locally-organised 'popular consultation' in February (see below) and intends to continue its exploration work.

## 7. Consultation in February in the communities affected by the project

The 'popular consultation' was the first of its kind to be carried out in Colombia. Such consultations have been used elsewhere in Latin America to gauge support for and opposition to mining projects. They are based on the principles of community custom and local autonomy. This consultation was also based on Indigenous rights to territory established by the Colombian constitution of 1991 and the principles of International Labour Organisation (ILO) Convention 169. Article 7 of ILO Convention 169 says: "The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, 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 purpose of the consultation was to ensure that the Colombian authorities, Muriel Mining Corporation and Rio Tinto would know and accept the communities’ decision about the mining project in their territories.

The consultation, an initiative of the Indigenous communities themselves, produced a resounding ‘No’ to mining in their territories. The intention is that with the help of the legal actions being taken, the consultation will be legally recognised by the State. Voting took place over three days in four places, with the participation of 17 communities from three Indigenous Resguardos – all Emberas – and a community council from the Afrocolombian communities.

Communities have also been carrying out frequent rituals seeking forgiveness from the spirits for the violation of their most sacred place. These are an expression of their objection to mineral exploration. They are demanding that the company cease its activities in their territory and that their sacred place be demilitarised.

## **8. Duties of the State, responsibilities of businesses and access to remedies**

The Colombia Solidarity Campaign believes that the UK Government is bound to uphold the UN Declaration on the Rights of Indigenous Peoples and other human rights instruments, and that companies are bound to observe them. Rio Tinto is clearly associated with a company against which serious allegations have been made. Colombia Solidarity Campaign does not have confidence that the Colombian authorities are effectively imposing on companies operating in its territory even the minimal obligations to which they are bound by Colombian law, let alone the stricter obligations imposed by such international instruments as the UN Declaration on the Rights of Indigenous Peoples. UK law needs to be changed in order that London-listed companies can be held to account for their own actions and those of subsidiaries, associates or joint venture partners in other jurisdictions around the world. People from directly and negatively affected communities need to have an easy and effective avenue for investigation and redress of their grievances, and this should not be frustrated by the so-called ‘corporate veil’ which so often precludes the initiation of legal proceedings in British courts.

We urge the Joint Committee on Human Rights to hear oral evidence from representatives of the communities affected by the Mandé Norte/Murindó mining exploration project in Colombia. At a minimum, we believe that the JCHR should have the opportunity to hear from Father Henry Ramirez Soler of the Comision Intereclesial de Justicia y Paz, currently in Europe for some months, whose attendance in London could be arranged with minimal cost and delay.

Richard Solly,  
Chair, Colombia Solidarity Campaign.

*Much of the information in this submission was collated by Guadalupe Rodríguez of Salva la Selva/ Rettet den Regenwald, Berlin, to whom the Colombia Solidarity Campaign is very grateful. It is based on information provided by the Comisión Intereclesial de Justicia y Paz, the Organización Indígena de Antioquía OIA (Indigenous Organisation of Antioquia) and others. Photos are from the OIA.*