



PUBLIC STATEMENT

The Indian Law Resource Center (Center) is the international legal representative of the Maya Q'eqchi' Agua Caliente Community (Community), which possesses its traditional lands in El Estor in the Department of Izabal, Guatemala. On February 8, 2011, the Constitutional Court of Guatemala issued a ruling affirming the property rights of the Community to its land. The Court ordered the executive branch, through its land titling governmental agency FONTIERRAS, to adopt the necessary measures to title and register the lands of the Community. The ruling occurred despite permits that were granted by the Ministry of Energy and Mines authorizing the Guatemala Mining Company (CGN) to exploit nickel on lands belonging to the Community. In this case, FONTIERRAS was sued, and CGN and the General Land Registry office were interested parties. The judgment of the Constitutional Court is definitive and not subject to negotiation tables.

In a public statement issued on March 17, 2011, the Government of Guatemala stated that for the purpose of preserving good governance and the rule of law, it would immediately put into effect all eviction orders related to illegal actions. This approach, among others, is part of the roundtable dialogue that this administration promotes as a matter of policy. In response to such a statement, the Center expresses the following:

1. Possession of traditional lands by indigenous communities does not constitute an illegal action. On the contrary, this possession embodies the special relationship that indigenous peoples maintain with their lands, territories, and natural resources. International law protects this relationship and stresses its material, economic, and spiritual nature.
2. The land titling process should not be delayed to benefit extractive industries to the detriment of indigenous communities. The unwarranted delay and the inefficiency of FONTIERRAS in carrying out the land titling process is public knowledge. These irregularities contribute to and perpetuate land conflicts.
3. The government must respect and comply with Court rulings that favor indigenous communities over extractive industry interests, not promote negotiation tables. The lack of compliance and questioning of these rulings seriously undermines the division of powers of the State and the rule of law.
4. The Office of Attorney General should refrain from issuing and executing eviction orders against indigenous communities whose property rights to land have been recognized by the courts. Failure to do this undermines the fundamental division of the powers of the State.
5. The Ministry of Energy and Mines should invalidate permits for exploitation of subsurface resources (1) that have been granted without a process of prior consultation with potentially affected indigenous communities, and (2) that are in direct violation of these communities' property rights to land as recognized by court rulings. Failure to rescind permits granted under these conditions violates indigenous communities' rights and compromises the international responsibility of the State.

For these reasons, the Center calls upon the Government to take all the necessary administrative and legal measures to comply with the Constitutional Court ruling in favor of the Community, and not negotiate it. In this case, only such compliance would lead the Government to preserve governance and the rule of law, and not compromise the State's international responsibility before the Inter-American System of Human Rights.

Washington, DC, United States, July 14, 2011