



## **Indigenous Emberá Communities Resist Invasion by Multinational Mining Corporation in the Bajo Atrato, Colombia**

On January 3<sup>rd</sup>, 2009, the multinational mining company, La Muriel Mining Corporation, along with a small contingent of the Colombian National Army, commenced mining activities in the sacred mountain of “*Ellausakirandarra*” or “Dog Face Hill”, in the traditional territory of the Urada Jiguamiandó Indigenous Reservation. Muriel Mining did not consult previously with the affected communities according to their laws and customs and respecting their traditional forms of decision-making; nor did the mining corporation obtain their free and informed consent. For not respecting the communities’ rights under international and domestic law, the Muriel Corporation and its project “Mandé Norte” further endanger the cultural and territorial integrity of these communities, already threatened by the ongoing, armed conflict in Colombia.

### **The Communities of the Urada Jiguamiandó Reservation.**

The three communities of the Urada Jiguamiandó Indigenous Reservation, Alto Guayabal-Coredoctio, Urada and Nuevo Cañaverel, are of the Emberá Dobida Indigenous people. Their traditional territory—titled and legally recognized since 2003<sup>1</sup>, is located in the Jiguamiandó River basin in the municipality of Carmen del Darien, Department of Chocó. The Emberá people maintain many of their distinct cultural traits, including their own forms of political and social organization, mythology, traditional medicine, dress and history. According to traditional law, the maximum authority of the communities are the general assemblies of the local *cabildos* (indigenous government), formed by every family from each community. Their political and legal representative is the local governor elected by each community.

### **The Mandé Norte Project.**

The Mandé Norte mining project is made up of nine separate mining concessions, granted in February 2005,<sup>2</sup> for the exploration and exploitation of copper, gold, molybdenum and “all other exploitable minerals.” The concessions cover an area of approximately 160 km<sup>2</sup> between the Murindó Municipality, Department of Antioquia, and the Carmen del Darien Municipality, Department of Chocó. In addition to the Urada Jiguamiandó Reservation, the project will directly affect the Chageradó-Turriquitadó River and Murindó River Indigenous Reservations and the collective territory of the Afro-descendent Communities of the Jiguamiandó River Basin.

The “La Rica” zone, identified as the area of greatest mining potential and site of the first incursions of the Muriel Mining Corporation and their military escort, lies in the sacred mountain of the Emberá communities, “Dog Faced Hill” (see map).

### **Human Rights Violations.**

The supposed “previous consultation” process undertaken by the Muriel Corporation, and with the approval of the Ministry of the Interior and Justice, is rife with serious

<sup>1</sup> The entire reserve has an extensión of roughly 19,744 hectares and is recognized through Resolution 007 of the Instituto Colombiano de Reforma Agraria (INCORA), July 23, 2003.

<sup>2</sup> See, e.g. CONTRATO ÚNICO DE CONCESIÓN MINERA No. 6197, 4 de febrero de 2005.



irregularities, including the following violations of the communities' international human rights:

*Lack of a Previous Consultation:* The meetings directed by the corporation under the guise of a “previous” consultation occurred 2 years after the mining concessions were granted. This is in direct violation of international law enshrined in the Convention 169 of the International Labour Organization (ILO), the United Nations Declaration on the Rights of Indigenous Peoples and the jurisprudence of the Inter-American Court of Human Rights.<sup>3</sup>

*No Consultation with Authorized Representatives:* The Muriel Corporation met with individual indigenous from the area that did not have the previous authorization granted by the local *cabildos* to represent their interests before the company. This lack of respect for indigenous autonomy violates not only the mandate of the Constitutional Court of Colombia, but also international human rights law.<sup>4</sup>

*No Respect for Traditional Forms of Decision-Making:* According to the customs of the Emberá people, a consultation of this nature can only be carried out with the participation of the general assemblies of the local *cabildos*—all the members of each community—which has yet to happen.<sup>5</sup>

*Lack of Environmental and Cultural Impact Assessments:* According to statements from the corporation and the Ministry of the Environment, there does not exist any environmental or cultural impact studies on the project. Without such valuable information, there could never truly be an “informed” consultation as required by the Convention 169 and the jurisprudence of the Inter-American Court.<sup>6</sup>

The little information that was available never reached the families in the communities, as these were only distributed in urban centers far from the Reservation and difficult for many to reach. Neither did the corporation distribute information in the Emberá language, thereby excluding the majority of the Reservation that does not speak Spanish.

*Lack of Previous, Free and Informed Consent:* The Mandé Norte Project goes against the express will of the general assemblies of the affected communities. Under international law, such consent is necessary given the profound impact on a large part of the Reservation's territory, including their sacred mountain “Dog Faced Hill.”<sup>7</sup>

### **Dog Faced Hill – Sacred Mountain or “Jaikatuma”.**

<sup>3</sup> See Convention (No 169) concerning Indigenous and Tribal Peoples in Independent Countries, art. 15 [hereinafter “Convention 169”]; United Nations Declaration on the Rights of Indigenous Peoples, art. 32 [hereinafter “UN Declaration”]; *Saramaka People v. Surinam*, Inter-Am. Ct. HR, Serie C No 172, ¶ 133 (Nov. 27, 2007).

<sup>4</sup> See Constitutional Court of Colombia, Sentence SU-039 (1997); UN Declaration, art. 19.

<sup>5</sup> See, e.g. *Saramaka People v. Suriname*, Inter-Am. Ct. HR., ¶ 133 (Nov. 27, 2007).

<sup>6</sup> *Id.*, ¶ 129; Convention 169, art. 7.3.

<sup>7</sup> UN Declaration, art. 32.2; *Saramaka People v. Suriname*, Inter-Am. Ct. HR., ¶ 133 (Nov. 27, 2007).



Within the territory inhabited by the Emberá people of the Jiguamiandó River Basin, there exist several important sacred sites known as “*Jaikatuma*.” The initial area of mining activities of the Muriel Corporation “La Rica” lies in one of these sites: *Ellausakirandarra*, or Dog Faced Hill. There,

“...live the malignant spirits that the *Jaibana* [traditional doctors] have expelled. Through the work of our traditional wise men, these spirits remain far away from our communities and we avoid people getting hurt or sick. To open the bowels of *Ellausakirandarra* is to free those spirits and endanger the physical and spiritual wellbeing of the indigenous peoples.”<sup>8</sup>

#### **The Peoples’ Consultation.**

Between the 24<sup>th</sup> and the 26<sup>th</sup> of February, 2009, the communities Alto Guayabal-Coredocito, Uradá and Nuevo Cañaveral, together with 9 other indigenous communities affected by the Mandé Norte Project, held an internal “People’s Consultation.” Over 1,250 members of the affected communities participated in the event, representing almost 77% of the total population of the Reservations. All voted against the project.

#### **The Muriel Mining Corporation.**

The Muriel Mining Corporation, incorporated in the United States, is a wholly owned subsidiary of Goldplata Mining International, a Panamanian corporation wholly owned by the Juilland family. The Muriel has currently entered into negotiations with the mining giant Rio Tinto for a 70% option in the Mandé Norte project. Under this agreement, the Muriel Mining would remain the sole operator and manager of the project in Colombia.

#### **History of Armed Conflict.**

The armed presence of troops from the XV Brigade of the National Army, under the sole pretense of providing private security for the mining company, is particularly worrisome considering the ongoing, armed conflict in area. Since the mid 1990s, confrontations between armed military and paramilitary forces and guerrilla troops have gravely affected the Uradá Jiguamiandó Indigenous Reservation and other communities in the Jiguamiandó River Basin. This situation has provoked the Inter-American Court of Human Rights to grant Provisional Measure to protect several of the communities affected by the mining project.<sup>9</sup>

On May 3<sup>rd</sup>, 2000, military operations of the XVII Brigade of the Colombian National Army caused the forced displacement of the Alto Guayabal community of the Uradá Jiguamiandó Reservation and led to the disappearance of three of the community’s members.<sup>10</sup> The members of Alto Guayabal were forced to live for eight years in an

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<sup>8</sup> Press Release, Position of the Embera Dobida and Eyabida on the Possible Mining Exploration and Exploitation in Their Territories, Oct. 24, 2005.

<sup>9</sup> Communities of Jiguamiandó and Curvaradó v. Colombia, Inter-Am. Ct. HR, Resolution on Provisional Measures (March 6, 2003).

<sup>10</sup> The members of the community who were forcefully disappeared were Regina Rubiano Bariquiru, Pablo Emilio Domico, and his daughter Blanca Lina Domico. In addition, in January 1999, community



alternative site called “Coredocito”, further within their territory near their sacred mountain “Dog Faced Hill.” Due to fears of continued violence in the areas, the community has not been able to return to their original site until mid-2008.

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members Guillermo Niaza Cano and his 11-year-old son, Ibaníel Niaza Majore, were forcefully disappeared. These crimes remain in total impunity.

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