

Peoples' Tribunals, Human Rights Abuses and the Actions of Canada's Mining Industry in Latin America

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"What Liberia is to shipping companies, Canada is for mining companies." – Theresa Wolfwood, Director of the Barnard-Boecker Centre Foundation, Apr 12, 2013

In time when legal and regulatory institutions find themselves short when confronting the corporate fiends, it has fallen upon civil society to come up with a solution – of sorts. The Peoples' Tribunal is one such example, an experiment born in the activist's drive to give judicial shape to ethical sentiments and indignant opposition. The format has been deployed in attempts to adjudicate the legality of Israeli actions regarding Palestinians; the legality of the Iraqi War; and the acts of various junta regimes in Latin America through the 1970s, to name but a few examples.

It all began, however, with the Russell Tribunal sessions in 1967 on US involvement in the Vietnam War. Despite being criticised for their one-sided slant (the jury panel did not see fit, it was argued, to assess Viet Cong crimes), the experiment prevailed. The absence of government initiatives and prosecutorial action had created a void.

Beyond war and peering into the reaches of civil society, a People's Tribunal has been used to make judgments on the World Bank in India, which made its findings on September 11, 2008. The verdict of the Independent People's Tribunal on the World Bank in India was not sympathetic to the body under examination.[1] "The Tribunal attempted to expose the nature and degree of coordination between the World Bank Group and other IFIs (International Financial Institutions), as they often act in concert."

The focus, amongst others, was on the impact of the bank on Indian sovereignty and democratic processes; the extent of its involvement in Indian policy making and legislation; the consequences of indebtedness and loan conditionalities on social sectors (food, water, health and education); and the Bank's impacts on "vulnerable communities, including women, children, dalits, minorities, adivasis, workers, fisher folk, and farmers." In its statement of findings, the Tribunal noted a hinterland of exclusion and mistreatment – while the World Bank had a "self-proclaimed" agenda of poverty reduction, its actions "exclude the poor in the best of cases".

A sector that has also received scrutiny in the form of a peoples' tribunal is the mining industry. The conduct of the mining industry in Canada is of particular importance in this regard. A range of activist groups, notably those connected with a tribunal founded in 1979

by “socially-committed jurists” has busied itself with Canadian mining activities in Latin America.

The Permanent Peoples’ Tribunal Session on the Canadian mining industry sees every reason to focus on the companies that make it up, seeing as over 75 percent of all registered mining companies have their headquarters in Canada. Mining executives, it has been repeatedly found, love doing business via Canadian channels – a 2008 survey cites 7 Canadian provinces amongst the top 10 globally in terms of policies sympathetic to the industry.[2]

Much of this is expounded upon by Quebec-based researchers Alain Deneault and William Sacher’s *Imperial Inc. – Legal Haven of Choice for the World’s Mining Industries* (2012), an exposition which ties in other rather well with such discussion of Canadian foreign policy as Yves Engler’s *The Ugly Canadian* (2012). “The mining sector in Canada is totally out of control,” claims Deneault. “We don’t have any way to make sure that, on the ethical level, these mining corporations registered in Canada behave properly abroad.”[3]

A large part of what “abroad” is has proven to be countries in Latin America. In their verdict on December 10th last year, the bench of the PPT identified a range of “systematic human rights abuses perpetrated against communities affected by large-scale mining projects.”[4] (The investigation, it should be noted, is an ongoing one till 2016.)

Mining giants have generally garnered bad press – that is, unless that press is being steered by the commodity sector, laced with a good deal of gagging and libel chill. The McGill Research Group Investigating Canadian Mining in Latin America (MICLA) and the Observatorio des Conflictos Mineros de América Latina (OCMAL) have identified somewhere between 85 to 90 “social conflicts,” in the wording of the PPT ruling, “involving Canadian companies.”

The verdict identified an assortment of environmental assaults, of which Barrick Gold and Goldcorp proved “emblematic” offenders. The right to life and a healthy environment were persistently breached by activities that saw deforestation, pollution, and the destruction of biodiversity. Goldcorp, operating in San Martin, Honduras, was found to have contaminated groundwater wells with cyanide and arsenic. Barrick Gold, operating out of Pascua Lama, Chile-Argentina “has infringed on the right to water of indigenous and local peasant communities.”

This is only part of it. Self-determination has been railroaded repeatedly. Consultation with indigenous groups in a manner free, fair and informed, has been left wanting. The other side of this renting of sovereignty is an impairment of citizenship, be it through targeting unions and keeping a lid on social protests. “Numerous Latin American states have reformed their juridical framework in order to criminalize social protest.”

The local disturbances created by these mining industries is staggering, leading not merely to a change of laws on the books, but in some cases, to dislocations, conflict and the presence of refugees.

The combination between extractive industry on the one hand and compliant governments on the other is one that is repeatedly found in the mining sector. Seen as beneficial agents of progress, the mistaken assumption is that allowing mining to take place with minimal restriction is somehow a local benefit. (It certainly benefits certain interests, though these

tend to be limited.) The results have been disastrous.

While the PPT adds much needed oxygen to the unconscionable conduct of Canada's mining industry, legal actions in Canadian courts are also needed. Juridical support, as one of the judicial members, Gianni Tognoni explained, is needed to bolster "political and social arguments so that it would be clear that the battle for international justice is absolutely the same as the battle for internal democracy" (Inter Press Service, Jan 30).[5]

An industry with all the makings of mercantilist imperialism can only be brought to book via a combined set of approaches. A combination of legal sting and judicial ire will add more bite to what has merely been, to date, a snarl.

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Notes

[1] http://www.worldbanktribunal.org/WB_Tribunal_Jury_Findings.pdf

[2] <http://focusonline.ca/?q=node/503>

[3] <http://focusonline.ca/?q=node/503>

[4] http://www.tppcanada.org/wp-content/uploads/Executive-summary-Ruling-PPT-Canada.eng_.pdf

[5] <http://www.ipsnews.net/2015/01/peoples-tribunal-hopes-verdict-on-mining-abuses-gains-traction/>

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