

Co-operation and conflict between firms, communities, new social movements and the role of government the Cerro de San Pedro case

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Coopération et conflits entre entreprises, nouveaux mouvements sociaux et le rôle du Gouvernement: la cas de Cerro de San Pedro

Cooperación y conflictos entre empresas, comunidades, nuevos movimientos sociales y el papel del Gobierno: el caso del Cerro de San Pedro

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Abstract: The aim of this paper is to analyze relationships of cooperation and conflict between a mining company and the involved communities, New Social Movements and the three levels of government. The mining company begun operations for an open pit mine of gold and silver supported by officials from the local, state and federal government. The inhabitants of these communities supported by environmental groups and NGOs argue that the project will pollute sources of fresh water besides of perturbing the environment and the ecology of the region.

Key words: Cerro de San Pedro; community; conflict; environment; firm; government.

Resumo: O objetivo deste artigo é a análise das relações de cooperação e conflito entre uma companhia de mineração e as comunidades envolvidas, os novos movimentos sociais e os três níveis de Governo. A companhia de mineração iniciou suas operações a partir de uma mina a céu aberto de ouro e prata apoiado por autoridades dos Governos local, estadual e federal. Os habitantes dessas comunidades, apoiados por grupos ambientais e ONG argumentam que o projeto vai poluir os recursos naturais de água além de ameaçar o meio ambiente e a ecologia da região.

Palavras chaves: Cerro de San Pedro; comunidade; conflito; meio ambiente; empresa; Governo.

Résumé: L'objectif de ce travail est l'analyse des relations de coopération et conflit entre une entreprise minière et les communautés impliquées, les nouveaux mouvements sociaux et les trois niveaux de Gouvernement. La compagnie minière a commencé ses activités à partir d'une mine à ciel ouvert d'or et d'argent appuyée par les autorités des Gouvernements local, de l'état e fédéral. Les habitants de ces communautés, appuyés par des groupes de protection de l'environnement et des ONG, affirment que ce projet va polluer les ressources naturelles d'eau, en plus de menacer l'environnement et l'écologie de la région.

Mots-clefs : Cerro de San Pedro; communauté; conflit; environnement; entreprise; Gouvernement.

Resumen: El objetivo de este artículo es el análisis de las relaciones de cooperación y conflicto entre una compañía de minería y las comunidades envueltas, los nuevos movimientos sociales y los tres niveles de Gobierno. La compañía de minería inició sus operaciones a partir de una mina a cielo abierto de oro y plata, apoyado por autoridades de los Gobiernos local, gubernamental y federal. Los habitantes de esas comunidades, apoyados por grupos ambientales y ONG, argumentan que el proyecto va a contaminar los recursos naturales del agua además de amenazar el medio ambiente y la ecología de la región.

Palabras claves: Cerro de San Pedro; comunidad; conflicto; medio ambiente; empresa; Gobierno.

Introduction

The presence of the mining company (MSX) in Cerro de San Pedro has caused a severe social conflict among the inhabitants of San Pedro, Soledad y San Luis and has called the attention of all who are concerned by historic heritage, cultural and environmental issues. At the center of the controversy is the cheap and efficient technology. Federal and state. Laws were violated. It is quite evident the lack of sensitivity of foreign mining companies

toward the consequents of their activities upon the communities and environment. This case also shows the lack of negotiation between firms, communities, new social movements and governments. Information about externalities and future costs of company activities is crucial but more crucial is formulation and implementation of more sensitive policies to avoid damage of the environment, biodiversity and health of population. Governmental institutions must be aware that their decisions may affect the community quality of life of actual and

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future generations only for a small increment in economic growth and large increase in private benefits of a small group of investors.

More informed citizens tend to be more active protestors, such as the case of the students in San Luis. Contact between informed individuals of diverse groups and organizations help to exchange experiences and create public opinion in favor of mobilizations. Community participation and involvement in decision making of community development planning is quite limited by the lack of critical information. This fact is critical when the local government cannot provide the right information because there are other interests affecting the process.

Geographical localization

Cerro de San Pedro is a semi-abandoned historic mining town located in the center of Mexico, the State of San Luis Potosi. Cerro de San Pedro is a small village 10 miles east of the City of San Luis Potosi, the Capital of the State of San Luis Potosi. Cerro de San Pedro is located in the mountains above the valley of San Luis Potosi and is part of the watershed area for the valley and its major cities. The valley is the source of 73% of the water for the area.

It is a ghost town containing the ruins of shops, churches, estates and a hospital. Today there are only about 100 people living in the Cerro. The Real hamlet covers the hills on both sides of the canyon; large and small houses flank the narrow streets (Cordero de Enciso, 1997). The remains of the 400 year old town are still there, along with an active church and municipal office. Cerro de San Pedro sits in the high desert in the heart of Mexico, the kind of place with lots of road runners and big cacti. 400 years of mining did not alter the original appearance of Real, which is irregular and whose center is the parish of San Pedro. The artistic and urban development that started in the 17th century is represented in Cerro de San Pedro. There are two structures particularly important from the historical heritage perspective. The Church of San Nicolas dates from XVII Century and San Pedro Apostle which dates from the Century XVIII.

Legal background

Since the Prehispanic times in México, mining has played an important role in economic and political history. From 1986 to 1990 The World Bank granted credits to support the structural adjustment economic policies. The credit 3359 supported structural adjustment of the mining sector categorized as B to eliminate environmental requirements and public hearings (Border Ecology Project, 1994). Under a neoliberal economic policy, amendments to constitutional Article 27, a new Agrarian Law, a Mining Law (1993) and a Foreign Investment Law during the nineties, allow the ejidatarios, originally limited owners of land rights, to change the ownership. Investors now could associate with ejidatarios, exploit land resources without buying it. The North American Free Trade Agreement (NAFTA) offer advantages and opportunities for investors.

The Mining Law (1993) and the Regulation to the Mining Law (1999) opened to foreign capital areas that were reserved for national investors and defined new rules for the development of national and foreign investments in exploration and exploitation of minerals as activities of public utility. The granting process of mining concessions does not require public hearings and most of the times the affected communities are the last ones to know about the project. There are some references about considering this and others "competitive advantages that offer Mexico compared to their partners in NAFTA (Bardake, 1993). A mining concession can not be cancelled for polluting the environment and only can be fined.

The conflict

At the center of the controversy is the cheap and efficient technology. It is alarming the use of cyanide and its impact on watersheds, the environment and human health. Lixiviation consists in pile up mineral mixed with cyanide over a platform in such a way that gold will be residual. Cyanide is used for the extraction of metals since 1887 as a chemical reactive to solve gold in water (Logsdon et al, 2003). 20 percent of global production is used in a process of

lixiviation to get gold. Almost 99% of gold is separated from a rock and it is profitable to spend one ton of cyanide to extract 6 kilos of gold (Ronco, 2002).

Studies done by Minera San Xavier to evaluate pollution risk to the watershed of the valley of San Luis and to quantify the use of millions of cubic meters of water and its evaporation are insufficient and with a tendency. The hydrological card of INEGI the subterranean waters of San Luis Potosí and Cerro de San Pedro are the same in the geo hydrological zone. The daily use of 16 tons of cyanide and 32, 000 tons of rock material that would require one million of cubic meters of water per year would have residuals of cyanide, heavy metals, toxic material and mercury stem can contaminate the watershed favored by inclination of land and put at risk population.

The process implies daily 16 tons of cyanide mixed with 32 millions of liters of water. According to the Environmental Impact Manifestation presented by MSX, should be erosion by deforestation, alteration of drainage patterns, cancellation of productive activities, pollution caused by deposits of toxic residuals and severe, irreversible and permanent damages. The Manifestation of the Environmental Impact of the company considers that "the impact is significant and adverse for the extraction of water" (Page 16) 90% of water consumption comes from the valley of San Luis which can be contaminated by the cyanide used in the lixiviation process (Martínez Ramos, 2004).

Excavation for the mine will take place in an area of 67.7 hectares, digging a crater 1,150 ft. deep and a half-mile wide to gain access to the 90,500 oz. of gold and 2.1 million oz. Of silver the mountain could yield each year for the next decade. The mountain will be demolished and in its place will be large deep pits filled with the residue of the mining process. Soil cover will be lost in an area of approximately 500 hectares.

The pit is only about 600 meters from the town square and the tunnels from the old town go under the church and the square. If the mine project goes forward, a 1,150-ft., halfmile crater would be blasted in the top of mountain that sits behind the town of Cerro de San Pedro, Mexico. The proposed

mine would destroy the historic remains of the old town and destroy the environment because of the cyanide leaching and potentially poison the water of San Luis Potosi. Greenpeace says cyanide high risk in mining plans by a Canadian firm in the Mexican district of Cerro de San Pedro. The firm Cambior has been involved in two most disastrous cyanide spills in mining history. Millions of liters of water contaminated.

The project would entail moving part of the town and its historic buildings, but the people don't want to move. To avoid damage of the buildings, the company plans would move the municipal buildings and the centuries old church another 600 meters away. The company would destroy the environment for a yield that would last only 6-8 years. MSX only vaguely outlined on the environmental-impact report. how it would restore the mountaintop, clean up the massive piles of bulldozed waste, protect rare plants and wildlife like the biznaga cactus and the desert tortoise, and safeguard the town's 16thcentury structures. Actual profit from the exploitation would be low in comparison to the amount of destruction and permanent ecological damage that would result.

Most troubling was the company's unclear plan for the management and disposal of the toxins, including cyanide, that are used in gold mining. The daily use of 13 tons of explosives composed of nitrate "Anful" will produce great quantities of dust which can cause irreversible ills. 640 millions of m3 of cyanide materials would be residuals covering a surface of 178 hectares which will not allow agricultural or cattle activities for generations. The potential poisoning of the watershed lands alone would have dramatic consequences for the inhabitants of San Luis Potosi. (Campbell, 2004) However, MSX argues that it has clarified its plans and is implementing the 100 changes suggested by a group of Mexican academics who studied the environmental-impact report.

In spite of he fact that permits have been cancelled, the company have huge trucks, big tanks and workers on site, and the land has been cleared for future use in an environmentally protected area, so the

clearing is obviously illegal. A test drill resulted in the street collapsing because of the tunnels under the street and the company had “repaired the damage” by dumping a load of gravel. If the project goes forward, MSX would add about 170 jobs to its existing staff of 34 to work on the mine, but the new jobs will require education and training that people from Cerro de San Pedro often lack. Some qualified residents would receive temporary housing a few miles from town. Other villagers could choose to stay here and receive a monthly payment based on the typical wage here, from MSX that could be used to strengthen their houses to protect them from the blasts.

The Company violated federal and state laws. Among federal laws:

- Presidential Decree of June 2, 1961 which forbids extraction of water in the valley of San Luis Potosí.
- Article 35 of Federal Law of fire arms and explosives. Store and consumption of explosives is only 50 meters from town instead of at least one kilometer.
- The Agrarian Law establishes the obligation of the agrarian authority to staff and protect the ejidatarios. The Company leased ejidal lands from fake ejidatarios. State Laws violated are
- Article 7 of the Environmental Law of San Luis Potosí which does not give faculty to the governor to authorize licenses of land use. The Governor exceeded his authority to grant authorization of land use in may 2000.
- Article 15 of the State Constitution of San Luis establishes the right of citizens to enjoy a healthy environment and to prevent and combat environmental pollution.

Most recent events of cooperation and conflict relationships between the actors

In a resolution dated September 1st, the TFJFA substantiated a case brought in 2000 by the civic union Pro San Luis Ecológico, opposing the authorization granted to the company the previous year by the National Institute of Ecology (INE). The Delegate of the SEMARNAT in San Luis Potosí (2002-2004) created and presided Foundation of Potosi under the purpose

declared by Minera San Xavier to fulfill the conditions established by National Institute of Ecology to authorize the Manifest of Environmental.

Impact and to provide the compensations of ecological costs. The firm needs more than three years to fulfill only 32 of 100 conditions imposed by SEMARNAT while this Secretary only needed one Month to accept them. The Court halted operations at the San Luis de Potosí Gold Project, owned by Minera San Xavier (MSX), a subsidiary of the Canadian company Metallica Resources.

The Federal Court’s resolution was based on the necessity of ecological preservation of San Pedro Hill, where some animal species are in danger of extinction, as well as risks derived from cyanide use in mining, which would put in danger the biodiversity of the area. In addition to this point, the TFJFA recalls that the responsibility for preservation and regeneration of the environment lies with the federal authority. It concludes that the permit granted for the concession did not conform to “applicable laws”.

The opponents to La Minera San Xavier consider that “the project is dead”, since any action that could undermine the federal justice decision “would imply disrespect and transgression of the law”. The company has retorted that the decision lacks a scientific base and that it will harm Canadian investments in the country. Second District Judge of the Federal Judicial Power dictated suspension of plan as part of the appeal 909/2004, promoted by ejidatarios de Cerro de San Pedro, San Luis Potosí, to suspend permit of buying and using explosives by the company. MSX appealed the ruling and, in September, lost again. Because the company’s latest appeal was rejected, they are threatening to use NAFTA’s Chapter 11 to sue the Mexican government for potential lost profits. On September 27, the Broad Opposition Front asked to the Sub direction of Mining Rights to order cancellation of concession to Minera San Xavier. On October 7, personnel of the Secretary of Economy asked the ejidatarios to withdraw the land but a judge suspended the action. Against the owners of the land, during the first period of the project, more than 100 hectares of protected

areas were illegally naked of protected species cutting the flora and expulping the fauna. The municipal President who under pressure granted the permit, confronts a suit for not obeying the law because the municipal permit was suspended on March 16, 2004. On February 6 2004, MSX did not acknowledge some of the environmental commitments acquired and underestimating obligations to fulfill conditionings.

The company also committed fraud against the three levels of government who granted respective permits for the mining project under the assumption that land tenure was not viscid. With a fake contract, MSX took possession of land causing destruction on old buildings and protected flora and fauna, a loss to the ecosystem. The company also closed neighborhood roads that had been used by inhabitants of La Zapatilla, Cuesta de Campa, Portezuelo y Cerro de San Pedro, without any permit. Invaded land of national property where was the old track of the train Potosí-Rioverde and installed a fence of several kilometers to avoid access to inhabitants to municipal land (Montemayor, 2004).

On October 26, the Federal Tribunal of Fiscal and Administrative Justice determined that authorization of conditioned land use granted in 1999 to the project of MSX was against federal norms and not considered the existence of a protected area plan for the Cerro de San Pedro and surroundings. In public speech the 28 of October, the Minister of Environment and Natural Resources evaluated the resolutions of tribunals as the worst and spoke on favor of the company as having fulfilled all the requirements and considered as absurd the opposition of the inhabitants. After SEDENA granted permits for use of explosives, on November 18, an incident of violation of suspension granted to the appeal promoted by ejidatarios on August 9, was promoted. On the 22 of November, Semarnat promoted a revision against the resolution that cancels the permit of conditioned operation of the open pit mining to MSX and SEDENA authorized to MSX the use of explosives. The 29 of November, 2004 the Director of Mining in the State of San Luis Potosí declared that in the following days the Company would have the first blasts to pre-

pare operations. 30 of November, 2004, The Senate Chamber passed an "obvious and urgent resolution" to stop programmed operations of MNX. On Dec. 1, an Agrarian Unitary Tribunal defended its claim that MSX's lease excludes a group of land owners. The Agrarian Unitary Tribunal ordered to obey the sentence derived of an appeal 807/202 which determined the illegality of the leasing contract of land subscribed in March 1997 for a period of 15 years by fake ejidatarios that did not have land rights on the Ejido. (Cruz Martínez, 2004). The Court cancelled rental contracts subscribed between the company and false ejidatarios.

The ruling freezes MSX's land rights although the company constructed barbed wired fences around land that the company doesn't own. The Agrarian Tribunal (Tribunal Unitario Agrario) has nullified the rental contracts for the land where important parts of the mine are located - on the grounds that the persons renting the ejidal (socially-owned) land to the company were not in fact members of the ejido, that is to say that their actions were fraudulent. About the land use, the company declared that the ejido leased is Cerro de San Pedro when belongs to the municipality of Soledad de Graciano Sanchez. The intention is to avoid permits in area that is legally environmentally protected. Also, Ejidatarios of Palma de la Cruz leased 136 hectares to Minera San Xavier to be used as shops but the company was using it as disposal of sulfurous material that is not lixiviable. On the 13 and 14 of December, the company blasted the area of La Zapatilla incrementing tension among the inhabitants of the region. On December 14th, it began excavating the mountain. Inhabitants of the town La Zapatilla were relocated alter the company initiated operations. When the INAH knew about the blasting, requested the company to stop of such activities arguing the defense of around 115 buildings dated from XVII to XIX Centuries. Since 1998, INAH had warned over the danger for the historic heritage that would represent to activate the mining. With the opposition of the National Institute of Anthropology and History (INAH), and the reluctant permission for using explosives for blasting the mountain, of the Secretary of

Defence (SEDENA) the company has begun its operations.

The company appealed but the judge did not grant suspension against INAH decision. On December 18, 2004 intellectuals, artists and around 50 civil, environmental and Human Rights organizations strongly requested President Fox to respect and enforce the law at Cerro de San Pedro and to order Minera San Xavier to suspend activities based on judicial resolutions and verdicts. The arguments of the organizations, among others, Frente Amplio Opositor, la Asociación Nacional de Abogados Democráticos, la Unión Nacional de Trabajadores Agrícolas y el Movimiento Agrario Indígena Zapatista (Maiz), were in favor to defend the environmental, cultural and historic heritage and the imminent health risks of more than one million people Ejidatarios continued with a safety line in front of the entrance to the mine although it was announce that the Secretary of Economy of Mexico will grant a permit of temporal land occupancy in the agrarian nucleus of Cerro de San Pedro in response to an application done by MSX the 28th of June, 2004 (Cruz Martinez 2004a). Thus, the Company and government were looking for other options of land ownership such as Expropriation or temporal occupancy. But expropriation is only by cause of public utility.

On the 20 of December, The Third District Court received the appeal presented by the company against the decision of the INAH. The Canadian firm Metallica Resources Incorporated suffered a second decrease in the year of 16 percent in value of shares on December 21, after informing shareholders over the resolutions of Unitary Agrarian Tribunal which nulls the contract of leasing of 300 hectares in Cerro de San Pedro. Metallica Resources responded with an appeal and skating that would look for other option of land tenancy to have access to mineral resources The first decrease in a year, of around 20% occurred in mid 2004.

Members of Christian Science Monitor, were the first Canadians to come and witness the damage that has already happened, and the potential for more harm. On December 22, 2004 under strategic action, Mexico citizen's group sought halt in the Canadian-

owned mine, in responds to an urgent request for Canadian support to challenge legality and operations. Sedena admitted participation in control and surveillance of blast that the company realized, confirming violation of suspension dictated by the judge in August, 2004 ordaining not liberation of permit to use explosives (Cruz Martinez, 2004). Another round of blasting was scheduled for December 31st. On December 18, the Municipal President of Cerro de San Pedro announced next detonation On the 15 of November, 2003, The Commander of the 12 Militar Zone of San Luis Potosí considered that authorization of the permit could affect negatively to SEDENA.

The Secretary of National Defense, the 30 of November 2003, agreed to suspend the permit to use explosives granted to the mining company, but on October 12, 2004, against resolutions of judged, signed and granted permits of use of explosives. The Commander of the military zone that had opposed was removed from his position. On November 22, SEDENA authorized to MSX the use of explosives. However, the 24 of December when authorizations were public already, the permits were suspended but not cancelled. The Secretaría de la Defensa Nacional (Sedena), suspended the permit 3762-San Luis Potosí granted to MSX to buy and consume explosive material under the argument that the license to the company was altering the peace, tranquility and public order among people living in the region of Cerro de San Pedro, although the inhabitants have denied alteration of public order (Cruz Martinez, and Balboa, 2004).

The National Institute of Anthropology and History (INAH) suited against directives of the Transnational for destruction and demolition of Finca Guadalupe, that dated since the XVIII Century. The Broad Opposition Front sent a letter to the Canadian Embassy requesting intervention to halt operations of the Canadian company who is blackmailing and pressing inhabitants of Cerro de San Pedro using as arguments the NAFTA's framework (Roman, Jose Antonio, 2004). The last two days of December 2004, the lawyer of the company MSX got signatures among fake ejidatarios from Cerro de San Pedro and La Zapatilla, who would agree to use TNT (La Jornada, January 2, 2005).

The Ministry of the Environment has taken legal steps to have the previous court rulings against the company overturned. SEMARNAT had promoted an appeal of revision to the resolution of cancelled permit but had obtained in its favor a suspension to avoid cancellation of the permit. The Commission of Governance, Constitutional Issues and Justice of the Permanent Union Congress approved an agreement to request information to SEMARNAT about the legal status of Minera San Xavier and to accept the resolution of the Court that cancels the permit of operation of the open pit mining. A plural commission traveled to Cerro de San Pedro (La Jornada, January 12).

The destruction of a historic building catalogued as a heritage monument of the XVIII Century in the town of Cerro de San Pedro by Minera San Xavier was reported by La Jornada San Luis and Triunfo Elizalde (2005). The Finca o Casa de Guadalupe is included in the National Catalog of Historical Monuments. Access to the Finca was in the area. On the 17 of January, protesters of AOF demanded INAH for information (Enciso, 2005e). The owners of Casa Guadalupe, a historic real state demolished by MNX sued the company for dispossession and damages. The building is in the catalog of historic constructions of the Instituto Nacional de Antropología e Historia (INAH). Personnel from INAH ordered to stop demolition on January 15. The Patronato Pro Defensa del Patrimonio Histórico y Cultural del Municipio Cerro San Pedro, demanded cancellation of concessions to MNX for not fulfillment of the Mining Law (Enciso, 2005d).

According to the Secretary of Environment and Natural Resources (SEMARNAT) Minera San Xavier has fulfilled with 180 conditions established to favor sustainable development (Enciso, 2005c). The 20 of January, 2005, the Broad Opposition Front (AOF) Frente de Oposición Amplia (FOA) to the Minera San Xavier addressed an open letter to the Constitutional Governor of the State of San Luis to denounce damages caused by the blasts and the dangers and risks of planned mining operations.

The argument of the governor stating that it was "an issue between particulars" is

severely criticized (Annex C.). Minera San Xavier sued for defamation to members of the Broad Opposition Front two ejidatarios of Cerro de San Pedro and the leader of a civil organization Pro Defensa de Cerro de San Pedro (Cruz Martines, 2005a for the publication of an article in La Jornada (Masiosare, 29 de Agosto de 2004). The National Network of Civil Organizations of Human Rights, All the Rights for All (la Red Nacional de Organismos Civiles de Derechos Humanos Todos los Derechos Para Todos) started to circulate a letter of support to the three accused, as an Urgent Action. Minera San Xavier lost other judicial process when the Third Court of District from State denied an appeal against the National Institute of Anthropology and History (Instituto Nacional de Antropología e Historia, INAH), who requested last December suspension of blast explosions that damaged the historic heritage (Enciso, 2005b). In a public message, AOF sustained that in a shameful act of cynicism and impunity, Cardenas Jimenez has recommended the Minera to go to the Tribunals without knowledge of the coursed legal process (La Jornada, February 13). The Broad Opposition Front to the MNX announced in mid February 2005 that would promote a demand of political suit for negligence against the Minister of the Environment and Natural Resources who have supported the company in a public hearing on the 11 of February (La Jornada, February 14). The Senate approved an agreement requesting SEMARNAT and SEDENA to explain their involvement in the Minera San Xavier case (Cruz Martinez, 2005).

On March 4, 2005 a conference/forum Cuarto Concierto Cultural por la Defensa de Cerro de San Pedro took place for the defense of the environment the village and the rights in Cerro de San Pedro, sponsored by Patronato Pro Defensa Cerro de San Pedro, marking the 413 anniversary of its foundation, the 4 of march of 1592. On March 17, a KAIROS delegation formed by seven Anglican, Lutheran, Presbyterian, Roman Catholic and United church leaders went to Cerro de San Pedro to investigate a mining operation owned by Metallica Resources, a Canadian company based on Ottawa that stands accused of illegal gold mining in

Mexico. The company threatens to destroy both the historic town and the surrounding fragile ecology. The Canadians met with KAIROS' Mexican partners and local people to bear witness to their struggle and brought details home to Canada, including video and other documentation. "Foreign mining in Mexico is another by-product of NAFTA and the trade liberalization policies that affect the poor," said Lutheran National Bishop Ray Schultz, a delegate with the KAIROS program. "When our Mexican partners raised concerns about this Canadian-owned mine, we felt we had to investigate." (Kairos, 2004).

Representants of Kairos, formed by a group of Canadian religious institutions expressed concerns over the conflict of the Community of Cerro de San Pedro and the Canadian company considering that the practices of MNX violates Canadian Laws in Mexican territory (Munoz, 2005). Previously, a member of the Broad Opposition Front had toured and campaigned in Canada lobbying leaders of opinion and legislators. On March 18, 2004, the Auxiliary Bishop Daniel Bohan of Toronto called on a Canadian company to abandon a Mexican gold and silver mining operation using cyanide that locals fear will poison their water. With a surge in gold prices, MSX executives want to move forward and are searching for a legal breakthrough that will allow MSX to begin excavation and resume operations by mid-2005 (Campbell, 2004).

Under an irregular procedure, the Canadian Company promoted two appeals, but was denounced by the Pro Ecology Group. On 6 of April, 2005, a Tribunal in Administrative matters of First Circuit informed to MNX that had lost the appeal. Canadian legislators and Human and Parliamentary Rights Canadian Organizations formed a follow up and analysis committee to investigate actions of Metallica Resources, owner of the project Minera San Xavier. The Human Rights Canadian organization had visited previously the community of Cerro de San Pedro (Enciso, 2005a).

The Canadian Ambassador in Mexico met with the Broad Opposition Front to the MSX on the 4 of May and expressed the concerns of the Canadian Government for the conflict between the company and the

Community of Cerro de San Pedro. A group of 30 environmentalist organizations accused the Minister of the Environment and Natural Resources to benefit transnational corporations approving projects such as the open pit mining at Cerro de San Pedro against the will of the community and demanded a change in the environmental policy (Enciso, 2005). The protestors also denounced that the Minister has prosecuted environmental activists.

Oppositional groups win the judicial controversy against MNX after the First Court of District (Juzgado Primero de Distrito) has dismissed the appeal 503/2005, which was the last resource of the Company's defense. (La Jornada, 9 de mayo, del 2005). The Governor of the State of San Luis Potosí ordered to highjack a complete edition of the newspaper La Jornada San Luis to avoid to be know the publication of his official maneuvering for pressure the decision to install the mining company Minera San Xavier (Hernandez Lopez, 2005). 13 of May 2005 is reported that after Metallica Resources presented looses in its first report of the year, the owners of MNX plan to withdraw Cerro de San Pedro's project and will suit the NAFTA's panel of controversies Cruz Martínez, Angeles (2005a).

Final remarks and conclusions

Mining activities are perceived as the main factor of marginal regions and depressed zones. Mining concessions granted by Mexican government is centralized, brief and against public hearings, in such a way that affected groups and communities can not react immediately and mobilize against potential risks and dangers or to negotiate rights and interests.

The Canadian firm Metallica Resource Incorporated was at the point to destroy part of the environmental, cultural and historic heritage of the country, although there were three judicial resolutions to halt operations granted by different authorities upon request of the. Ejidatarios who have rights to own the land had been dispossessed. It was assumed that operations of the firm were in complicity with the Federal, State and local governments.

The environmental and health risks would have side effects on more than one million people living in the localities of Cerro de San Pedro, la Soledad and San Luis Potosi. Norms were violated by the transnational when it started operations without obtaining legal permit of construction and operations and authorization to manage and to store explosives.

Exploitation of gold through open pit mining and use of cyanide lead to destruction of natural environments and irreversible geomorphologic alterations, distortions of watersheds, reduction on the quality of available water, transport accidents of dangerous substances and spill over during the exploitation, irreversible destruction of natural scenic and generation of deposits highly risky pollutant materials which have social, cultural and environmental impacts at short, medium and large terms (Montenegro, 2004).

The negotiation agenda and international mobilization around the debate over the concept of sustainable development and defense of the environment is a paradigm presented as a model of cooperation and consensus where the needs of all are incorporated and the greater have a compromise to support weaker. Intervention of the state and international community to benefit the public interest and the common good and to control forces of the state and to achieve more equity among populations together with the implementation of more sustainable production and consumer patterns.

It is quite evident the lack of sensitivity of foreign mining companies toward the consequences of their activities upon the communities and environment. To a certain extent, we disagree with Sánchez-Mejorada (2000) who argues that facts will not convince the fringe environmental activists, the best defense is to address all environmental concerns and to have an aggressive community relations program that will put the facts before the general population that will be affected by the project. Keeping a low profile will rarely work when being assaulted by activists on all fronts. But, an aggressive community relations program will escalate the conflict.

This case also shows the lack of negotiation between firms, communities, new social movements and governments. Information about externalities and future costs of company activities is crucial but more crucial is formulation and implementation of more sensitive policies to avoid damage of the environment, biodiversity and health of population.

Governmental institutions must be aware that their decisions may affect the community quality of life of actual and future generations only for a small increment in economic growth and large increase in private benefits of a small group of investors. More informed citizens tend to be more active protestors, such as the case of the students in San Luis. Contact between informed individuals of diverse groups and organizations help to exchange experiences and create public opinion in favor of mobilizations. Community participation and involvement in decision making of community development planning is quite limited by the lack of critical information. This fact is critical when the local government can not provide the right information because there are other interests affecting the process. The impact of mining activities is not part of the national political debate agenda.

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