

Making the World Safe for Prosperity: State Department needs an overhaul to become more business friendly

The case of the US Embassy and Tahoe Resources' Escobal silver mine in Guatemala

By J. Michael Waller, Ph.D.

Summary. The State Department's shift toward building "civil society" abroad has clashed with the mission to promote traditional US national interests. Occasionally it has harmed legitimate American business interests abroad. To illustrate the problem, this paper describes how international NGOs operated in a single country to target and shut down a billion-dollar US-based business operation and deprive the company of billions of dollars in capitalization. The beneficiary was not the American people, but political activists, international NGOs, and radical groups in the foreign country. This case study illustrates the problem, and shows the strategy and techniques of the NGOs, to help guide Secretary of State Rex Tillerson's reforms of the State Department.

Introduction

Some US-based companies have found that the State Department is no longer a dependable confidant abroad. The State Department in the past decade has become a devotee of promoting sharp socioeconomic change in other countries, almost without regard to local economic impact, in the name of building "civil society" for the "international community."

In some countries, the US Embassy has worked in partnership with international non-governmental organizations (INGOs) with a history of suspicion of, or hostility toward, US national interest and free enterprise. State Department cooperation with non-US groups against US companies has cost billions of dollars in revenue and market capitalization. If left unchecked, State Department behavior will continue to damage American-based companies that do not have influential lobbies in Washington.

This paper studies the case of Tahoe Resources, a Nevada-based mining company registered in Canada. Traded on the New York Stock Exchange with the ticker TAHO, Tahoe Resources invested more than \$1 billion in Guatemala to open one of the world's largest and most modern silver mines in 2014. International NGOs had the mine shut down in 2017. The US Embassy pressured the Guatemalan Congress to appoint a radical NGO activist lawyer as the de facto leader of the country's highest court, which will hear Tahoe Resource's final legal appeal.

The case shows how US Ambassador to Guatemala Todd Robinson used the might of the American Embassy to promote the anti-mining NGOs' themes, and compel Guatemalan lawmakers to make a radical change in the nation's judiciary to suit the interests of the anti-

mining movement. Robinson is not an anomaly. He is a distinguished career foreign service officer who has held senior diplomatic posts. He is representative of a new, mature generation of the United States Foreign Service who believes that the State Department's role is to follow the lead of international NGOs for the benefit of the "international community."

Knowledge of the case can aid the State Department leadership in devising ways and means of reforming the Foreign Service, and the Department as a whole to serve the interests of Americans first.

Toward an America-First Foreign Policy

President Donald Trump's general approach to strategic change in US diplomacy is what he calls an "America-First Foreign Policy."¹ Secretary of State Rex Tillerson has been re-directing the State Department's mission to conduct foreign policy and diplomacy from a sovereign, America-first perspective. Drafts of a new statement of purpose for the department include greater promotion of "prosperity" or other references to a "more prosperous world."²

Disconnect between diplomacy and business. Mission creep over the years has turned the State Department into a sprawling agency with too many bureaus that pursue their own agendas and do not operate in an integrated, strategic fashion to ensure the national interest. The Atlantic Council, an establishment group of the bipartisan center, recently agreed with this conclusion in a landmark report on reforming the State Department.³ The Atlantic Council observed,

*"Support for US firms—from large to small—that operate overseas is an important part of diplomacy. From briefing on local conditions to support in dealing with foreign governments on licenses and patent protection, from insuring fair treatment across the board, to economic reporting, embassies and their staff provide important benefits to US businesses and the economy. As we focus on improving our balance of trade, these traditional economic functions of American embassies can be strengthened and improved."*⁴ (Emphasis added)

The American private sector abroad is disconnected from US Embassies. "For a wide range of reasons some of which are beyond the control of the department, many in the US business community and private citizens either have little or no relationship with the diplomats who

¹ "America First Foreign Policy," The White House, undated statement accessed September 12, 2017.

<https://www.whitehouse.gov/america-first-foreign-policy>

² Josh Rogin, "State Department considers scrubbing democracy from its mission," *Washington Post*, August 1, 2017.

³ Bruce Bedford, et al., eds., *State Department Reform Report* (Washington: Atlantic Council, Brent Scowcroft Center on International Security, August 2017).

⁴ *Ibid.*, p. 5.

serve them or express little enthusiasm for the department's services," the Atlantic Council report said.⁵

The private sector, especially low- and mid-cap companies, has not been engaged with the State Department or with Tillerson's proposed reforms. Particularly vulnerable are metals mining companies, which international NGOs have targeted for years, and which find themselves on the losing end and occasionally find the State Department as an adversary. Even when private mining companies upgrade existing operations abroad and introduce state-of-the-art technologies and social and environmental practices, they become targets for harassment and shutdown. Many of these companies are Canadian-registered, even if the owners are American or the headquarters are in the US, because of Canada's favorable climate toward mining. For the purposes of this paper, we will consider Canadian-American mining ventures to be American if they are headquartered in the US with American executives and major shareholders.

Reforms will rebuild State Department-business relations. An increased State Department emphasis on promoting civil society programs, in partnership with local organizations and parties, and with international NGOs, has created a disproportionate priority on nation-building at the expense of US national strategy and prosperity.

Part of the administration's FY2018 State Department budget priority is "to reduce or end direct funding for international organizations whose missions do not substantially advance U.S. foreign policy interests, are duplicative, or are not well-managed."⁶ This is a new development. Tillerson said the budget request for 2018 "reflects the president's 'America First' agenda that prioritizes the well-being of Americans, bolsters US national security, secures our borders, and advances US economic interests."⁷

Subsequently, Tillerson said that he sought to "redesign" the State Department through a combination of technological modernizations, more flexible personnel policies, and elimination of inefficiencies and redundancies. "Our redesign plan seeks to align State and USAID foreign assistance and policy strategies, capabilities, and resources to execute foreign policy priorities more effectively," Tillerson said.⁸

⁵ Ibid., p. 7. The Atlantic Council report gave many other reasons for the disconnect, including the eclipse of the State Department as a foreign policy strategy and policy center since the NSC staff and Pentagon took the lead in 2001, as well as professional foreign service training and a range of other issues.

⁶ "America First: A Budget Blueprint to Make America Great Again," Executive Office of the President, Office of Management and Budget, 2017, p. 33.

https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/budget/fy2018/2018_blueprint.pdf

⁷ Secretary of State Rex W. Tillerson, "Department of State and USAID FY 2018 budget request," Press Statement, May 23, 2017. <https://www.state.gov/secretary/remarks/2017/05/271051.htm>

⁸ Nahal Toosi, "Rex Tillerson offers peek into State Department redesign plan," *Politico*, September 14, 2017, citing Tillerson email. <http://www.politico.eu/article/rex-tillerson-offers-peek-into-state-department-redesign-plan/>

Returning from the ideological outcome-based approach. With the transformation of the State Department’s Office of Policy Planning from a strategic office to an operational one, State has lost its strategic planning approach. The White House National Security Council (NSC) staff, a presidential-level policy integration body, usurped the State Department as a strategic planning entity under President George W. Bush. This trend accelerated under President Barack Obama, who expanded the size of the NSC staff to pursue community organizing and social activism on a global scale, in partnership with foreign NGOs and INGOs, at the expense of certain American business sectors and, arguably, other national interests.

Part of the Obama approach was outlined in Presidential Study Directive 11 (PSD-11), a still-classified document from 2010 that, according to an intelligence journalist, “goes to the core of Obama's worldview. This is the president as global community organizer - a man who believes that change is inevitable and desirable, and that the United States must align itself with the new forces shaping the world.”⁹ The goals of PSD-11 were ideological outcome-based, as opposed to reality-based, and resulted in the toppling of otherwise stable and pro-US governments.¹⁰

That approach had disastrous results, as Rep. Pete Hoekstra noted in 2016. According to Hoekstra:

“under PSD-11 the State Department would lead an effort to build ‘civil society’ — particularly nongovernmental — organizations to alter the internal politics of targeted countries.

“Under PSD-11, the Obama administration deliberately pivoted from a strategy that focused on maintaining stability in the Middle East to a strategy emphasizing U.S. support for regime change — regardless of the impact it might have on the region's stability.”¹¹

While believed to be focused on the Muslim world, the general worldview in PSD-11 affects policy elsewhere, including Latin America. A generational shift in the professional foreign service found senior career professionals who embraced that worldview. Other diplomats became increasingly under pressure from INGOs, often funded by the European Union and private donors, to push “civil society” agendas that often conflict with American national

⁹ David Ignatius, “Obama’s low-key strategy in the Middle East,” *Washington Post*, March 6, 2011. <http://www.washingtonpost.com/wp-dyn/content/article/2011/03/04/AR2011030404614.html>

¹⁰ Ignatius noted in 2011, “In supporting the wave of change sweeping the Arab world, despite the wariness of traditional allies such as Israel and Saudi Arabia, Obama is placing a big bet that democratic governments will be more stable and secure, and thereby enhance U.S. interests in the region,” David Ignatius wrote. “My own instinct, as someone who has been visiting the Arab world for more than 30 years, is that Obama is right.” That result proved disastrously wrong.

¹¹ Pete Hoekstra, “Obama rolls dice on foreign policy in secretive presidential directive,” *Washington Examiner*, October 3, 2016. <http://www.washingtonexaminer.com/obama-rolls-dice-on-foreign-policy-in-secretive-presidential-directive/article/2603354>

interests. Some of these agendas benefit national political parties, transnational movements, and allied investors who use political means to depress targeted businesses, then buy them for a small fraction of their value.¹²

The civil society worldview: America is no longer first. The State Department's Obama-era statement of purpose reflected that new worldview. The practical result of implementation would lower the supremacy of the US to a more egalitarian level on par with all other countries, subsume US national interests to trans-national agendas set by European governments and INGOs, and reject the idea of placing traditional American interests first. This was reflected in an official statement from 2016:

“The Department’s mission is to shape and sustain a peaceful, prosperous, just, and democratic world and foster conditions for stability and progress for the benefit of the American people and people everywhere. This mission is shared with the USAID, ensuring we have a common path forward in partnership as we invest in the shared security and prosperity that will ultimately better prepare us for the challenges of tomorrow.”¹³

In the Americas, this view eroded nearly 200 years of consensus. By 2013, Secretary of State John Kerry repudiated the Monroe Doctrine, a cornerstone of hemispheric foreign policy and strategy since President James Monroe pronounced it in 1823.¹⁴ “The era of the Monroe Doctrine is over,” Kerry proclaimed. There would be no more US intervention in Latin America.¹⁵

This was true in the traditional senses of keeping foreign imperial powers out of the hemisphere, and of unilateral US action. The United States, in Kerry's view, would no longer act on its own, but in partnership with others. In practice, the US would remain a potent political force on a multilateral scale. Kerry appeared to be recognizing the critical mass of INGOs and anti-US, anti-capitalist movements in Latin America that, among other things, were accelerating a decade-long offensive against private metals mining investment in the hemisphere.

The target was not American investment *per se*. The target was principally US and other Anglophone investments in enterprises that extract silver and gold from the ground. The metals

¹² One such philanthropist businessman is George Soros. Soros' own motivations are a matter of speculation, but one must note that the gold mining sector was a Soros pick. See Emily Stewart, “10 stocks George Soros is buying in 2016,” TheStreet.com, August 25, 2016. <https://www.thestreet.com/story/13052918/11/stocks-george-soros-is-buying.html>; and Matt Egan, “George Soros bet big on gold,” CNN Money, May 17, 2016. <http://money.cnn.com/2016/05/17/investing/george-soros-betting-against-stocks-buy-gold/index.html>

¹³ United States Department of State, *Agency Financial Report: Addressing Global Challenges through Engagement and Partnership*, Fiscal Year 2016, p. 7, referenced by Rogin. <https://www.state.gov/documents/organization/264495.pdf>

¹⁴ “Monroe Doctrine (1823),” President James Monroe's 1823 annual address to Congress, National Archives, <https://www.ourdocuments.gov/doc.php?flash=true&doc=23>.

¹⁵ Joshua Keating, “Kerry: The Monroe Doctrine is Over,” *Slate*, November 19, 2013.

http://www.slate.com/blogs/the_world/2013/11/19/kerry_the_monroe_doctrine_is_over.html

mining sector had been selected for protracted political, legal, and economic attack for years. Yet that overtly planned attack was nothing that the US intelligence community or Commerce Department appeared to pick up. The planned attack appeared to concern few foreign service officers, even when the attackers personally briefed State Department officials in Washington and worked with US embassies abroad. Instead, the State Department welcomed the attackers and apparently agreed to help them.

The importance of the Tahoe Resources case study for State Department reform is that local and international NGOs have a strategy to lure the US government into local foreign social and political conflicts. The purpose is to recruit American embassies as agents of influence against gold- and silver-mining companies. The strategy has proven successful and cost-effective, so one should expect NGO efforts to intensify.

Case study

International campaign against the world's largest and most modern silver mine

The remainder of this paper focuses on the campaign to destroy what is considered the world's largest and most modern silver mine, and how the American Embassy became involved. This presentation will describe the strategy, tactics, and mechanics of the campaign, and how the international organizers sought to induce the US government to act as an effective agent of influence to shut down the mine.

After a billion-dollar investment, Tahoe Resources' Escobal mine in San Rafael las Flores, Guatemala, began commercial operations in 2014. It was shut down three years later. The closure resulted in a substantial collapse of the Nevada-based company's capitalization, due in large part to crucial State Department intervention to re-shape the ideological leadership of the Guatemalan judiciary.

Politics of the natural resources sector. Many countries and societies regard mineral wealth beneath their soil to be part of the national patrimony. Some of that sentiment is enshrined in law. Much of it is based on ancient cultural or modern ideological beliefs. Even with privatization of mines in the 1980s and 1990s, indigenous groups continued to claim mining rights even where they had no legal claim to the mining properties. The International Labor Organization's (ILO) Indigenous and Tribal People's Convention adopted a measure in 1989 to require governments to consult with indigenous groups prior to opening state-owned property to mining exploration or exploitation. The language of the measure, ILO 169,¹⁶ is vague and remains hotly debated. According to the ILO, the measure is "the only international treaty open for ratification that deals exclusively with the rights of [indigenous and tribal] people."¹⁷

¹⁶ "C169- Indigenous and Tribal People's Convention, 1989 (No. 169)," International Labour Organization, http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312314

¹⁷ "Indigenous and Tribal Peoples," International Labour Organization, <http://www.ilo.org/global/topics/indigenous-tribal/lang--en/index.htm>.

Environmental and indigenous-rights NGOs and INGOs embraced ILO 169. But they did not embrace the new economic opportunities and benefits that modern mining from publicly traded companies offered local communities. Instead of working with mining companies, the groups preyed on fears of ecological destruction, pollution, and health risks. Gold and silver mines became icons of colossal wealth that highlight existing social and economic inequalities. Politicians, organizations, and movements that take a class conflict approach tend to see such foreign investments as a zero-sum game.

In the case of Guatemala, as in some other Latin American countries, the anti-mining activism is associated with demobilized armed extremist groups and their political networks, which may seek to take ultimate control of the mines for their own political purposes. The State Department in Guatemala ended up siding with leftist government officials and judges closely allied with radicalized leftist activist networks, rather than American interests. Many of these local activist networks are unregulated and corrupt, often working in the shadows to undermine the interests of U.S. businesses.¹⁸

Structure and function of the anti-mining networks

Significantly, the global anti-mining movement only targets private and public companies from Anglophone common law jurisdictions (Australia, Canada, New Zealand, United Kingdom, and United States). The reason for this should be clear: Many other foreign countries are not subject to the stringent laws found in western countries that ensure transparency and penalize corrupt practices. Consequently, these companies are often free to operate with a higher degree of impunity – bribing local NGOs and government officials to look the other way or approve extractive industry projects.

Through “bridging” and “bonding” techniques,¹⁹ NGOs link different groups of people and causes with one another to create almost unbreakable alliances. Constituencies include local community groups, health organizations, rural and indigenous advocacy groups, environmentalists, local NGOs, churches, and radicalized political parties and movements. INGOs combine their efforts and leverage the strengths of their relative international networks to form a pressure movement against the targeted company.

Bridging and bonding techniques create a “boomerang pattern of influence” from the grassroots via international organizations. “When channels between the state and its domestic actors are blocked, the boomerang pattern of influence characteristic of transnational networks may occur: domestic NGOs bypass their state and directly search out international allies to try

¹⁸ For the purposes of this paper, the term “American companies” applies not only to US-owned firms, but also Canadian-incorporated firms that are based in the United States or traded on US exchanges. These incorporations and corporate headquarters are essentially a shell game to minimize regulation and taxes, but under US law they are still considered “US persons,” and therefore require US embassy protection abroad.

¹⁹ See Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community* (Simon and Schuster, 2000).

to bring pressure on their states from the outside.”²⁰ This is where the State Department comes in.

Through bridging, bonding, and boomeranging, local entities with little domestic support can bring global pressure to bear on their governments. “In these cases, governments may be more responsive to external pressures from international organizations or powerful states than to their own citizens,” DePaul University Professor Rose J. Spalding wrote in her study of anti-mining campaigns in El Salvador.²¹ The networks revolved around a political party formed from demobilized violent extremists who disarmed to take part in the democratic process.

In El Salvador, as Spalding noted, that party was the Farabundo Marti National Liberation Front (FMLN),²² a former Cuban-backed guerrilla army that became the main anti-capitalist party. Wartime FMLN front groups created for information operations and political organizing purposes became mass organizations for a postwar civil society. The FMLN’s controlled front for wartime political action in the United States, the Committee in Solidarity with the People of El Salvador (CISPES), served as the core of the network.²³

In Guatemala, the structure and function are the same: the principal party is the National Revolutionary Union of Guatemala (URNG), which like the FMLN was a Cuban-backed guerrilla army that, after laying down its arms, joined the democratic process as the main anti-capitalist political party. During the war, the URNG maintained a network of front organizations similar to the FMLN, both inside the country and abroad. The URNG’s analogue to CISPES, as a controlled front for wartime political action in the U.S., is the Network in Solidarity with Guatemala (NISGUA), founded in 1981.²⁴ Unlike the FMLN, which is the ruling party in El Salvador with a strong degree of popular national support, the URNG remains a fringe party.

Whether or not NISGUA remains an agent of the URNG is unclear, but its role as a solidarity committee and its 35-year history show the organization acting in lockstep with the URNG. NISGUA explains its social justice role in its present mission statement:

²⁰ Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders* (Cornell University Press, 1998), p. 12.

²¹ Rose J. Spalding, “Transnational Activism and National Action: El Salvador’s Anti-Mining Movement,” paper presented at workshop on *The Domestic Effects of Transnational Activism*, Tulane University, New Orleans, April 11-12, 2011, pp. 3-4. http://stonecenter.tulane.edu/uploads/Spalding_Domestic_Effects_April_2011-1308324600.pdf

²² Spalding, p. 8.

²³ For a description of wartime FMLN political front organizations and how they worked, see J. Michael Waller, *The Third Current of Revolution: Inside the ‘North American Front’ of El Salvador’s Guerrilla War* (University Press of America, 1991). No similar book has been written on URNG fronts, but the author’s experience in Guatemala and El Salvador show that the systems are practically identical.

²⁴ NISGUA obscures its 1981 origins as the controlled front of the URNG guerrillas, and its wartime role as the US-based political support network for the insurgents. Today, it says only that it was “formed at the height of Guatemala’s war in 1981” and is now an activist network “comprised of thousands of people across the U.S. who demand justice for genocidal crimes of the past, push to change current U.S. policies, challenge corporate-led development in Guatemala, and advocate for grassroots alternatives.” Emphasis added. See NISGUA, “About Us,” <https://nigua.org/about/>.

NISGUA works for real democracy in Guatemala and the U.S. and strengthens the global movement for justice. NISGUA builds mutually beneficial grassroots ties between the people of the U.S. and Guatemala and advocates for grassroots alternatives to challenge elite power structures and oppressive U.S. economic and foreign policy.²⁵

NISGUA is horizontally integrated with the URNG party inside Guatemala to generate pressure upward on the government and mining companies (from below), and vertically integrated into activist pressure groups inside the United States to generate pressure downward on the Guatemalan government and mining companies (from above).

Social bases, structures, and functions of the networks. The wars and their aftermath in El Salvador and Guatemala developed almost impermeable social bonds that empower the networks well beyond their relatively small and narrow demographic bases.

Mutual antagonism remained between the demobilized guerrillas and the governing society. Guatemalan political and economic elites tend to look down on the country's sizeable and diverse indigenous populations. Like the FMLN, the URNG used its networks to build alliances with environmental movements that clashed with private business and sympathized with the plights of neglected rural populations.

Spalding and other researchers found that "relational mechanisms" or "trust networks," built through personal relationships during years of clandestine organization, guerrilla combat, and refugee hardships, provided the social cohesion to provide a hard core of seasoned and committed activists who eagerly worked with transnational movements.

Foreign mining operations, critics feared, would disrupt social cohesion, damage land needed for subsistence agriculture, and worsen environmental and health problems. Mining companies would exaggerate the jobs and revenues that mining operations would provide, activists said, so the companies could not be trusted. Indeed, mining companies did not prove adept at working the local indigenous communities the way the INGOs had been, choosing often to rely on lawyers and local town and national government authorities. The NGOs and INGOs would largely circumvent established political and legal structures to pursue an informal village-to-village *consulta* or consultative plebiscite process. They would then use the results of the consultas to legitimize legal and political action through the established structures, as we shall see.

Some rural fears were well-founded through personal experiences with existing or previous locally-owned or state-run mining operations that paid little regard to local communities, environmental damage, and health effects, especially on infants and children. This indifference to the well-being of the rural poor has a long history in much of Latin America, which helped stoke pockets of support for Communist revolutionary movements from the 1960s through

²⁵ "What is NISGUA? Our mission," NISGUA, <https://nigua.org/about/>.

early 1990s. Liberation theology, which taught a “preferential option for the poor,” provided legitimacy and spiritual guidance to the radical movements for change. In Central America, “interactions between Honduran, Salvadoran, and subsequently Guatemalan anti-mining coalitions helped to identify commonalities and shared vulnerabilities,” according to Spalding. Foreign NGOs provided demonstration projects, political organization, transnational networking, and an international voice for anti-mining efforts. Similar movements sprang up in other emerging economies, with international NGO backing.²⁶

Anti-mining movements begin after the wars stop. After the guerrilla movements ceased in the early 1990s to join civil society, mobile phone service, and later the Internet, proliferated across Central America to speed up the international connectivity process. This coincided with the issuance of ILO-169 and the regional trend toward privatization. By 2004, Central American anti-mining activists, organized by FMLN front organizations and funded by INGOs, launched their first annual meeting. That three-day meeting resulted in a formal Alianza Centroamericana contra la Minería Metálica in 2007. Metal mining, the alliance declared, was a “nefarious activity” that threatened life, health, “food sovereignty,” and natural resources. The alliance launched what it called an “incorruptible struggle” against metal mining.

This marks an important transition, because the hard core of these bridged and bonded networks required new ways to sustain themselves. The end of the Central American wars and collapse of Soviet communism stripped the Cuban revolutionary model of its glamor and practicality. Without huge Soviet subsidies, the aging Cuban regime could no longer serve as a political vanguard. In its place emerged the “Bolivarian” transnational revolutionary movement of the Hugo Chávez regime of Venezuela. Part of the Chavista *bolivariana* ideology was to spread nationalistic socialism in Latin America through each country’s own wealth beneath the soil. For Venezuela and Ecuador in particular, that wealth was oil drilled by state-owned companies. For Bolivia, it was silver and gold, mined under state political control. *Bolivarismo* rejected the trend toward market reforms and privatization across the hemisphere. The FMLN and URNG anti-mining movements, now funded through Venezuela’s transnational ALBA business patronage network, fit well with bolivarist political theory: Foreign companies were unwelcome, imperialistic threats to public sovereignty, and especially to the rights of

²⁶ In Europe, parallel to the Central American mining controversies, a Canadian mining company faced activist campaigns to shut down operations in Romania, one of the EU’s poorest countries. A movement funded by environmentalist billionaires and foundations organized a local community to oppose a Canadian firm that had bought a majority stake in a state-owned gold mine. The Toronto-based company, Gabriel Resources, bought the Rosia Montana mine that, for a variety of legitimate and questionable reasons, became a public relations nightmare and legal quagmire for the industry. The visible cost of the operation captivated a broad swath of the public, including mainstream Catholic and Orthodox church leaders, and became a cause célèbre against private gold mining worldwide. At stake were not only health and environmental issues, but the forced abandonment of a village with historic homes, destruction of historic sites, including ancient mine shafts from the prehistoric and ancient Roman ages, 11 cemeteries, and seven churches. In 2017, the company said it would pursue \$4.4 billion in damages from the Romanian government. Hearings for a counter-claim are expected in 2019. Neil Buckley, “Romania hit by \$4.4bn damages claim against stalled gold mine project,” *Financial Times*, June 29, 2017. <https://www.ft.com/content/52f5c202-5c99-11e7-9bc8-8055f264aa8b>

indigenous people. Bolivia sponsored a continent-wide network of anti-mining groups to share experiences and coordinate strategy in Peru, Central America, and elsewhere.²⁷

The coincidental role of INGOs proved vital to the anti-mining efforts and the larger movements of which they are part. “INGOs proved key strategic partners in the anti-mining campaign, operating both to pressure through international nodes (the classic boomerang pattern) and to amplify resources available to local networks in the ‘bring it home’ approach (the domestic conduit model),” Spalding found. A distinction is made between INGOs that specialize in conventional boomerang politics by internationalizing local conflicts, and those that build and mobilize domestic political alliances. The latter domestic mobilizers are called “power node INGOs,” which operate primarily in outward-looking cities and power centers, and “domesticating NGOs,” which tend to be based in a country’s periphery as agents of influence and organization.²⁸

This is where local movements and INGOs impact American embassies abroad to seek US government support in the name of social justice. “Local networks may need different kinds of resources from their transnational allies in each of these processes,” Spalding said. “In the classic form, they need allies with deep knowledge of the rules and pressure points operating in international power centers such as the US government” to cut aid or otherwise coerce host governments or private entities, “and international financial institutions” to suspend transgressors’ loans or cash flows.²⁹ The anti-mining movement gained an early major victory in Peru, where it put a St. Louis-based company out of business after the firm cleaned up 75 years of pollution from a state-run firm but before it could begin profitable operations.³⁰

²⁷ Spalding, p. 14, citing the Observatorio de Conflictos Mineros de América Latina (OCMAL), www.olca.co/ocmal.

²⁸ Spalding, pp. 21-22. The domesticating INGOs tend to be firmly rooted in rural communities, and united with local populations through decades-long presence in “communities in resistance,” built on sharing hardship in clandestine guerrilla movements, as refugee or displaced communities, and as traditionally marginalized areas. Spalding identifies a second type of domesticating INGOs as those “centered in the international development and human rights communities.” This second type has a “formally geocentric mandate and global vision” and is made up of foreigners, generally from the US, Canada, and Europe, who came to the host country to help with wartime solidarity, humanitarian relief, human rights, social justice, disaster relief, health issues, and environmentalism. Oxfam is a global domesticating INGO, according to Spalding, p. 23.

²⁹ Spalding, pp. 21-22.

³⁰ A similar coalition of international activists in Peru destroyed a productive copper and precious metals mining operation of an American company in Peru. A St. Louis-based firm bought the state-owned La Oroya copper, silver, gold, lead, and zinc mine and refining operations from the Peruvian government in 1997. Its Peruvian subsidiary, Doe Run, cleaned up environmental wreckage from 75 years of state-run mining, installed pollution controls, upgraded worker and health practices to American OSHA standards, and improved worker housing and health. Activists, legal action, and resultant government policies shut down the mine, destroying the American investment and leaving thousands of locals jobless. Bringing the mine up to acceptable health and environmental standards proved a difficult task, with organized political activism hampering operations. The Peruvian government cooperated with Doe Run until 2009. At that point, the US State Department under the new Obama administration became unhelpful and the government of Peru followed political pressure to impose standards that Doe Run found impossible to implement. The mining enterprise was ultimately liquidated and put up for auction in 2017. The mine in La Oroya, Peru, was owned by the Doe Run Resources Corp., a subsidiary of the Renco Group of St. Louis, Missouri. “Doe Run Peru auction,” *Mining Journal*, May 22, 2017. <http://www.mining-journal.com/featured-company-profiles/doe-run-peru-auction/>

Success in El Salvador fuels Guatemala anti-mining activism

The combination of NGOs and INGOs, all tied to the FMLN former insurgent movement, shut down the Pacific Rim gold mining operation in El Salvador before gold extraction could begin.³¹ Anticipation of that success inspired similar action in Guatemala, where gold and silver production was underway.

The first target, the Marlin mine owned by GoldCorp, sat in a convenient area: the rural highland region of Huehuetenango. Like Pacific Rim's Salvadoran claim in Cabañas, the Marlin mine was in the middle of former guerrilla territory. Huehuetenango's heavily indigenous population and cultural and economic remoteness from the capital made the area a URNG stronghold during the guerrilla war years, where decades of bridging and bonding techniques built strong grassroots networks with help from domesticating INGOs like Oxfam and the Center for International Environmental Law (CIEL), and local foreign-funded NGOs such as the Guatemalan Center for Environmental, Social, and Legal Action (CALAS).³²

GoldCorp is a Canadian company headquartered in Vancouver. As it did during the war, the URNG relied on its controlled front organization in the United States, NISGUA, to work on foreign power nodes to pressure the Guatemalan government and the mine from above. Soon, in early 2010, the activists persuaded the United Nations Special Rapporteur for Indigenous Rights, James Anaya, to call for suspending Goldcorp operations at Marlin until indigenous communities could be consulted through what is known as the *consulta* process.

Consultas. Community plebiscites called *consultas* are nonbinding votes that purport to sample public opinion on a given issue. Consultas can be ways of engaging local populations in grassroots decision-making. They find their mandate in ILO-169, which states:

³¹ Anti-capitalist activist groups in El Salvador successfully shut down gold mining claims of Pacific Rim, a Nevada-based company registered in Canada, after years of political opposition and litigation. Pacific Rim's claims were in a former FMLN guerrilla and refugee enclave, and the company failed to understand the political and social dynamics to succeed. The Salvadoran government supported Pacific Rim at first, but caved under relentless political pressure and arguably the corruption of the administration of (now imprisoned) president Antonio Saca. Pacific Rim lost expensive litigation cases, as well. Out of cash, Pacific Rim sold itself to another company, OceanaGold of Australia and Canada, which took the case to the World Bank's International Center for Settlement of Investment Disputes. The 2016 defeat of the mining enterprise "was celebrated by civil society groups from El Salvador to Canada."

³² One must note here for future reference that the most highly educated and politically connected organizers of the Guatemalan anti-mining movement may be eyeing the gold and silver mines the same way Hugo Chávez viewed Venezuela's oil wealth: As local resources for them to exploit for their own political and personal purposes. Activist lawyers in Guatemala's anti-mining movement have had top political aspirations of their own. Lawyer Pedro Rafael Maldonado, with CALAS, was a candidate for vice president of Guatemala in 2015, for the New Republic Movement (MNR) party allied with the URNG. Lawyer Yuri Giovanni Melini considered running for president that same year to head the URNG-MAIZ and WINAQ coalition, but withdrew in favor of former URNG guerrilla commander Sandoval Vásquez. "Vicepresidenciales, en la mira durante el primer debate," Soy502.com, August 18, 2015. <http://www.soy502.com/articulo/vicepresidenciales-mira-durante-primer-debate>

“In cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities.”³³

The ILO-169 language provides no specifics, but serves as the basis of the transnational consulta process for mining. The lack of specificity can often give rise to conflict in countries where governments are too weak to develop meaningful implementation frameworks. NGOs and INGOs purporting to represent indigenous communities then enter the void in what is supposed to be a government-to-government consultation to oppose the mines.

While Guatemala ratified ILO Convention 169 on June 5, 1996, neither the Guatemalan government nor the legislature ever promulgated specific regulations or any framework around the Convention’s implementation. Nevertheless, Guatemalan courts have penalized companies retroactively for both the legislature’s failure to establish concrete procedures for the consultation process and the national government’s failure to engage in consultation. At the same time, while Guatemala’s municipal code allows for local consultations that fall under the *specific* governing authority of municipalities, these municipal consultations are not part of the ILO 169 framework and not legally binding on large projects of national import such as mining. In other words, while a local municipal consulta can decide on approving or rejecting a local construction permit for instance, it cannot be conducted to approve or reject a large mining project.

Consequently, the confusion and lack of regulatory clarity has allowed local anti-mining NGOs to abuse the consulta process to serve their own specific agenda. In the Tahoe Resources case, local anti-mining NGOs used consultas (sometimes conducted under the municipal consulta framework) not to sample local opinion, but rather to shape it to the organizers’ pre-determined goals.

Organizers of consultas, as with any polling, can rig the results to promote a political or policy agenda, with the results used to justify the prearranged agenda of the organizer, and to foment discord and even violence. That unrest and bloodshed is then used for propaganda purposes in the mainstream media and via social media to demonize the opponent. That demonization of the opponent is then a vehicle to create a good-versus-evil narrative to generate financial, political, legal, and diplomatic support for the organizers’ agenda.

³³ “C169 – Indigenous and Tribal Peoples Convention, 1989 (No. 169),” International Labour Organization. http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312314

The broader objective of Guatemala NGOs use of the legally non-binding consultas is to pressure American, Canadian, British, and EU governments and international organizations to mandate tighter regulations far beyond the ILO's consultation requirement. The consultas are now being used to push Free Prior and Informed Consent (FPIC) that would give local communities the power to veto mining enterprises. In Guatemala, those local communities are politically dominated by, or pressured by, leftist political parties like the URNG and UNE and its allied NGOs and INGOs. Ultimately, the campaign seeks to establish jurisdictional and legal precedents in American, Canadian, and European courts through litigation.

For the purposes of the US State Department, the consulta process and similar political actions can have the ultimate effect of drawing the US government into isolated local matters in foreign countries, where those matters are unrelated to American national interests. In extreme cases like the anti-mining movement in Guatemala, the State Department can be lured into becoming an actor for the movement to achieve its goals. Such scenarios are damaging to both American diplomacy and private business.

Cycle of reinforced actions and reactions. Activists associated with the former Marxist guerrillas in Guatemala have led the anti-mining consultas through a local NGO called the Center for Environmental, Legal, and Social Action (CALAS). The public record shows that CALAS resorted to abusive and dangerous voter intimidation tactics to achieve their results, as well as organizing and funding violent protests against mining operations.

Rigged consultas bias local public opinion and generate negative publicity against target companies. The negative publicity forms the perceptions and opinions of larger audiences, as well as allegations accepted as fact, that demand corrective action. Those actions include legal challenges in the local country, and parallel challenges in the home countries of the companies, as well as international courts. Litigators combine their legal action with public relations and action campaigns to damage the reputations of the companies, diminish their capitalization value, and encourage large-scale divestment of equities. Each action is intended to reinforce another. Ultimately the targeted company is branded as socially irresponsible and even a public menace. Investors are pressured to divest. For redemption, the company must sell off its assets, or pay off its opponents by adhering to a mandated corporate social responsibility that it can never meet. The codes and legal verdicts then become precedents for international mining companies to face in future litigation in any jurisdiction, including Canada, Europe, and the United States.

How an abused consulta process works. Starting at the grassroots, activists opposed to certain mining companies conduct "awareness" and "educational" campaigns to shape the communities' view on the "yes" or "no" consulta ballot that voters will ultimately check. A vote for the targeted mine, people are told, is a vote against health and life. The campaigns include teach-ins, speeches, poster and banner campaigns, and other media as appropriate to the community in question. Many of the target audiences are illiterate or semi-literate. Images of the ballots are distributed, with the appropriate yes-or-no response highlighted in yellow. Both

sides of the argument are not presented. The mining companies and their interests are not part of the community discussion.

Those printed yes-or-no ballots contain the desired answer in a bright yellow rectangle.³⁴ A survey of reports of consulta vote tallies against Tahoe Resources' mine shows consistent results between 93.44 and 100 percent of all voters in the village or town, including towns dependent on the mine.³⁵ Any voter result this consistently extreme in different jurisdictions is generally fraudulent.

By contrast, all of the 18 authoritative local development councils, called *cocodes*, voted in favor of the mine. Representatives of four of them went to Guatemala City to hold a news conference to denounce CALAS and two other NGOs for interfering in the town's affairs. The consultas had no authoritative status or legal standing, they said, adding that the consulta organizers manipulated small numbers of people to oppose the mine and stir up conflict.³⁶

Since 2005, anti-mining activists have held at least 78 consultas in Guatemala, more than any other country in the region according to NISGUA.³⁷

Escalation from Guatemalan grassroots to the international stage. Controversy and violence from the consultas generated international support. Contributions from large INGOs for anti-mining consultas spiked sharply between 2007 and 2011, along with grants for other Guatemalan human rights and civil society groups. More than \$17 million came in through EU grants, which began and ended during that period.³⁸

Activists paired the consultas with formal complaints and lawsuits in Guatemala and Canada to challenge the mines, with some local NGOs as plaintiffs. Almost by default, the Inter-American Human Rights Commission (IAHCR) accepted the complaints for official investigation, a process that would take years. Activists use such investigations not necessarily to find official blame, but to generate years of negative publicity for the targets, irrespective of fact. Activists purchased shares in GoldCorp to use the complaints and investigations as pretexts for shareholder protests.³⁹ The purpose of the shareholder protests is to generate further negative publicity against the company, and to force the mine to divert investment funds into

³⁴ See images on MiningWatch.ca blog, <https://miningwatch.ca/blog/2010/12/22/undermining-human-rights-report-back-northwestern-guatemala>

³⁵ Luis Solano, *Estado de Sitio: Resistencia Pacífica a Tahoe Resources y la militarización en Guatemala* (NISGUA, November 10, 2015). <http://www.albedrio.org/htm/documentos/Solano-InformeEstadodeSitio2015.pdf>

³⁶ Rodrigo Baires Quezada, "San Rafael: La mina de la Discordia," Plaza Pública, September 9, 2013.

<https://www.plazapublica.com.gt/content/san-rafael-la-mina-de-la-discordia>

³⁷ Communities in Totonicapan and Quetzaltenango hold community referenda on mining, September 13, 2013 <https://nigua.blogspot.com/2013/09/communities-in-totonicapan-and.html>

³⁸ European Union, International Cooperation and Development Search Tool for Recipients, <http://ec.europa.eu/europeaid/work/funding/beneficiaries/index.cfm?lang=en&mode=SM&type=grant>

³⁹ "Shareholders say Guatemalans should not have to pay for Goldcorp's mess," Amnesty International news release, April 16, 2012. <http://www.amnesty.ca/news/news-item/shareholders-say-guatemalans-should-not-have-to-pay-for-goldcorp039s-mess>

environmental bonds as a tacit admission of environmental damage. It is also used to address company leaders directly.

Legal challenges generate their own evidence trails for further litigation and negative publicity. They create legal quagmires for the target companies. They are paired with protests to provoke incidents and defendant misconduct where none exist. They are used to introduce false evidence as immunized sworn testimony for others to cite. They multiply their tempo and volume as litigation is filed in jurisdictions worldwide to tie down business operations and establish broader and stricter standards that the companies can never meet.⁴⁰

Target: Tahoe Resources. During the protests against the Marlin mine in 2010, GoldCorp sold its Escobal silver mine to Tahoe Resources. No sooner did the transfer take place than the consulta movement – mainly restricted to Guatemala’s western highlands – worked to shut down Escobal in the southeast. Activists mobilized a tiny local Xinka tribe through the consultas, even though the Escobal mine is not located on tribal lands. Significantly, data obtained in 2012 by Guatemalan authorities with the National Registry of Persons (RENAP), found that there were no Xinka indigenous people *at all* in San Rafael las Flores – the location of the Escobal mine. Moreover, the most recent official Guatemalan census concluded the municipality was 98.6% non-indigenous with only *two* Xinka residents, a fact that CALAS itself noted in a 2017 public hearing. The ploy was to make Tahoe Resources appear to be trampling indigenous rights. The Xinka, who numbered only 16,000 in Guatemala’s 2002 census, within a few years would balloon to more than 200,000 as NGOs fueled a Xinka revival.⁴¹

Events began with a protest march to the mine, east of Guatemala City, and then to the Canadian Embassy back in the capital. NISGUA, the 35 year-old support apparatus for the URNG, now with a growing budget, sent out notice to recruit a professional “mining coordinator.” “The organizer will work with indigenous and campesino communities and national organizations in Guatemala, as well as a coalition of human rights, environmental and solidarity organizations in the U.S. and Canada to challenge the practices of transnational mining companies investing in Guatemala,” NISGUA said. The job would require “occasional travel to the US and Canada.”⁴²

The consulta process against Escobal continued through 2012 and 2013, as international organizations maintained their focus on shuttering Marlin. The consultas came to larger public attention in early 2013, when NISGUA reported that three members of the Xinka indigenous

⁴⁰ A key sponsor of the suits against Marlin was the Center for International Environmental Law (CIEL), based in Washington, DC and Geneva, Switzerland. CIEL states that a core part of its mission is to “slow” the “expansion of minerals mining and other extractive industries.” <http://www.ciel.org/about-us/strategy/>

⁴¹ “XI Censo Nacional de Población y VI de Habitación (Censo 2002), Pertenencia de Grupo Étnico, Guatemala: Instituto Nacional de Estadísticas, 2002, <https://web.archive.org/web/20080605011453/http://www.ine.gob.gt/Nesstar/Censo2002/survey0/dataSet/dataFiles/dataFile1/var26.html>; and Qué Pasa Magazine, April 15, 2015, <http://www.quepasa.gt/the-xinca/>

⁴² Carrie Stengel, “Job: NISGUA seeks mining program coordinator,” DVM-jobs-emplois, October 12, 2011. <https://groups.google.com/forum/#!msg/dvm-jobs-emplois/i-yydWJ-laY/TWD7Lzrptbkj>

movement had been kidnapped, implying that Tahoe was responsible.⁴³

During the consulta process in 2012, 13 local women who worked at the Escobal mine alleged that the head of the CALAS NGO opposing the mine had threatened them. The culprit, Yuri Giovanni Melini, was an activist lawyer and revolutionary politician who, along with three colleagues, later received restraining orders against contacting the women. The anti-mining activists responded with allegations of a conspiracy to “criminalize” what they termed “peaceful resistance” to the mine.⁴⁴ The case was overturned on appeal when some women expressed no knowledge of the incident or complaint, and withdrew.

Provocations enhance the narrative through violent political theater. The anti-mining movement used repeated consulta processes to indoctrinate and radicalize local populations, and stage direct action, vandalism, and violence to provoke the mine owners and authorities. Provocation was a common tactic of the FMLN and URNG to goad the targets into over-reaction. The tactic has a deliberate purpose to generate media events and rile up an otherwise apathetic or docile population. Provocations against Escobal resulted in arson, sabotage, and the deaths of two security guards and a local policeman. In the past, Guatemalan authorities have proven easy targets for provocation, and the mining executives seemed to have no experience in dealing with such tactics. Both problems harmed the company’s image and legitimized the URNG anti-mining narrative even further.

By 2013, as the Escobal commercial mining operations grew closer, the staged protests became larger and more violent. For months, CALAS, the European-funded NGO, had recruited and trained activists to organize against Escobal as it had against GoldCorp’s Marlin mine in Huehuetenango.⁴⁵ After weeks of blocking the mine gate on a daily basis, protestors armed with rocks, sticks and machetes provoked an incident on April 27 resulting in private security using tear gas and rubber bullets, injuring seven protestors and creating an international incident that continues to this day with ongoing damage to Tahoe Resources’ reputation.⁴⁶

Within days of the staged incident, the professionally organized demonstrators held 23 police

⁴³ <https://nisgua.blogspot.com/2013/03/genocide-case-trial-opens-amidst.html>

⁴⁴ “Guatemala: Criminalizan penalmente al Activista Ambiental y Defensor de Derechos Humanos Dr. Yuri Giovanni Melini, Director General de CALAS,” press release, Guatemala City, August 16, 2012.

<http://movimientom4.org/2012/08/guatemala-criminalizan-penalmente-al-activista-ambiental-y-defensor-de-derechos-humanos-dr-yuri-giovanni-melini-director-general-de-calas/>

⁴⁵ The NGO was the Guatemalan Center for Environmental, Social, and Legal Action (CALAS).

⁴⁶ “Capturan a Alberto Rotondo,” *La Hora* (Guatemala), January 22, 2016. <http://lahora.gt/capturan-a-alberto-rotondo/> The April, 2013 incident shows the long-term political and psychological value of the provocation tactic. Held under house arrest without trial for three years, the Escobal security manager fled to Peru, and soon thereafter was arrested under an Interpol warrant. He now awaits an extradition decision by Peru’s Ministry of Foreign Affairs, which is currently considering the Guatemalan government’s extradition request. Seven protesters then sued Tahoe Resources for damages, generating more bad publicity for the company and portraying the mining company as a brutal, greedy operation that not only harms the environment, but shoots innocent people. Underwritten by a Toronto-based NGO, the Canadian Center for International Justice, the suit was brought not in Guatemala, but in Tahoe’s home jurisdiction, British Columbia Canada, effectively internationalizing the drama for the URNG and the anti-mining movement.

officers hostage for several hours, who up to that point, were on other police business not involving the mine. This caused Guatemalan President Otto Perez Molina to declare a state of emergency in the area, and send in military troops to restore the rule of law generally in the area, including the protection of the lawful mining operations.⁴⁷

The police and military actions created devastating online visuals that spread virally worldwide. The instant narrative portrayed a greedy silver mining company using Guatemalan soldiers to repress a peaceful local indigenous tribe. The greedy company persecuted the local tribe in order to rip up sacred lands and flood the rain forest and local water supplies with toxic chemicals, so it could haul away tons of silver and gold.

NISGUA then sent out an international alert with a Canadian anti-mining group, declaring Tahoe Resources a “dangerous investment” and calling on the Canadian Pension Plan Investment Board to divest its 439,000 Tahoe shares.⁴⁸ Another activist group filed complaints to the Ontario Securities Commission and British Columbia Securities Commission against Tahoe Resources. CIEL, the international environmental law NGO based in Washington and Geneva, reported to its donors that the bad publicity caused the Norwegian government’s pension fund to sell off its Tahoe shares in 2014, due to what it called “an unacceptable risk of the company contributing to serious human rights violations.”⁴⁹

Boomerang: Drawing in the State Department. Meanwhile, the campaign shifted to holding the United States accountable for the problem. The Washington office of the Center for International Environmental Law (CIEL) organized a tour of Guatemalan anti-mining activists to attack Tahoe’s image, blame the United States, and demand US government action. CIEL’s high-powered attorneys provided the necessary inside-the-beltway knowledge and prestige, packaging the narrative and introducing a local Guatemalan protest leader who related the movement’s version of events. In May 2014, the delegation visited congressional offices, civil society groups and other NGOs, and the US State Department.⁵⁰

“Community leaders have faced repression, criminalization, and violence for their efforts to promote consultation processes with local residents,” CIEL reported. “Despite the conflict, Tahoe put the mine into operation even before carrying out a feasibility study to establish the economic viability of the project.” The local NGO leader on the CIEL tour was “deeply concerned about the environmental and social impacts of Tahoe’s mine and oppose its operation. He has worked to support the six men shot by mine security in April 2013,” CIEL said.

⁴⁷ CALAS operatives organized this protest, reportedly with funding from a civil society aid program provided by the Norwegian government.

⁴⁸ “Tahoe Resources Shareholder Alert: A Dangerous Investment,” MiningWatch Canada and NISGUA release, May 8, 2013. <https://tahoeontrial.files.wordpress.com/2015/02/investoralert2013.pdf>

⁴⁹ “2014 Annual Report,” Etikkradet Council on Ethics, http://www.ciel.org/wp-content/uploads/2015/06/CIEL_Report_2012.pdf

⁵⁰ “Speaking Tour Brings Attention to Guatemala Mining Conflict and US’ Role,” Center for International Environmental Law, June 9, 2014. <http://www.ciel.org/speaking-tour-brings-attention-to-guatemala-mining-conflict-and-us-role/>

CIEL went on to report that Tahoe’s Escobal mine “has been surrounded by controversy and conflict since 2011,” with the most recent incident being the murder of a 16 year-old girl who headed an anti-mining youth movement, a subtle hint that Tahoe was responsible.⁵¹

CIEL told Congress and the State Department about the consultas. “Tens of thousands of people have voted overwhelmingly against mining in 14 community consultations to date,” CIEL reported. The Escobal man responsible for injuring “six peaceful protesters” was arrested, and “A new campaign asks Canadian and US shareholders to divest from Tahoe Resources.”⁵²

The critical question of timing. Tahoe Resources stock was approaching an all-time high of more than \$27 a share on the New York Stock Exchange. This is an important issue because the stock price matches investor optimism about the Escobal mine, Tahoe’s largest and most promising property. Negative trend lines closely match key anti-mining campaign stages and court cases. NGO activism, combined with State Department action, would have a dramatic effect on Tahoe’s share value.

By 2014, dynamics had changed at the State Department to make senior diplomats unusually receptive to the anti-mining message. Any local Guatemalan opposition easily would have been overlooked or ignored as an isolated issue in a small country. Any overt URNG message would have been dismissed as extremist and illegitimate. But *the combination of patient bridging and bonding techniques to build cohesive community organizing across sectors in Guatemala, and the boomeranging effect of international NGOs to professionalize the organizing and arguments to foreign capitals, paid off.* Even then, it took the combination of the proper political leadership in the US under President Obama and Secretary of State Kerry, and a generational shift in the professional foreign service with its orientation away from placing US interests first, to seal the fate of the Canadian-American mining operation in Guatemala.

A Stanford graduate-turned-NISGUA operative moved from Guatemala to Reno, Nevada, home of Tahoe Resources’ corporate headquarters, to become the URNG’s “Mining Justice Organizer” within the Progressive Leadership Alliance of Nevada (PLAN).⁵³ PLAN is a coalition of more than 30 groups, ranging from the ALCU, the SEIU union, and Planned Parenthood. It had not been involved in anti-mining activity. After the NISGUA operative’s arrival, PLAN generated articles, op-eds, and other commentaries opposing metals mining in Guatemala. At least one piece appeared in the Reno newspaper that is part of Gannett’s *USA Today* network, bringing the issue into the public mainstream.⁵⁴

⁵¹ Ibid.

⁵² Ibid.

⁵³ Ellen Moore, LinkedIn profile, accessed September 17, 2017. <https://www.linkedin.com/in/ellen-moore-2b909648/>

⁵⁴ Ellen Moore, “Tahoe Resources cherry-picks support for Escobal mine,” *Reno Gazette-Journal*, October 22, 2016. <http://www.rgj.com/story/opinion/voices/2016/10/22/one-view-tahoe-resources-cherry-picks-support-escobal-mine/92625830/>

The American Embassy's vital role in the anti-Tahoe campaign

Tahoe Resources began commercial production at its Escobal mine in 2014. Tahoe invested about a billion dollars in the project, said to be the most modern and one of the world's largest silver mines, after buying Escobal from the beleaguered Goldcorp. Escobal is run by the Tahoe Resources subsidiary, Minera San Rafael, which is named after the local town San Rafael las Flores.

A study of the Escobal case shows how the US State Department's interventionist "civil society" agenda, in collusion with local political groups and international anti-capitalist NGOs, forced a state-of-the-art mining operation to close.

Ambassador Todd Robinson provided the INGOs' boomeranging effect. Happenstance apparently made the URNG/INGO strategy possible to drag the US Embassy into the controversy and exert American diplomatic power over Guatemala's elected government. Todd Robinson, a career foreign service officer (FSO), was named US Ambassador to Guatemala in 2014. Robinson had served in senior State Department posts.

His successful career shows Robinson to be part of a new generation of top career diplomats who subscribe to the idea that American interests are best served by using the US foreign service to leverage the existing grassroots work of community organizers and transnational NGOs to build civil society worldwide. The public actions and statements of the American Embassy in Guatemala reveal that Robinson adopted the rhetoric and policy agendas of the URNG-led anti-mine movement and INGOs while intervening in Guatemala's internal affairs.

Under Robinson's leadership, the American Embassy provided moral support to that movement, echoing its slogans in Spanish. Most decisively, Robinson ensured that an anti-mine activist lawyer, favored by the leftist UNE political coalition, would head the country's highest court. The timing would prove vital for both the anti-mine networks and Tahoe Resources, which were fighting it out through Guatemala's legal system. Legislative appointment of activist Gloria Porras to the Guatemalan Constitutional Court ensured that the company would be facing new and significant challenges to its operations from Guatemala's highest courts.

In the past, Guatemala's generally conservative political culture all but ensured that the URNG and other left-wing parties had no hope of gaining power through the democratic process. The URNG for instance has never enjoyed popular support. For decades it was a violent extremist group until, cut off from Cuban weapons, it became a legal political party. URNG has only three representatives in Guatemala's 158-member unicameral congress, and even allied parties are little more than fringe groups.

But while the URNG and its coalition partners may still display images of Che Guevara, today they have largely abandoned their Marxist rhetoric. Now, the URNG and its bridging-and-bonding coalition of local and international NGOs, have simplified their themes to wage

common cause against broad-based grievances. On its Facebook page, the URNG says it is waging a “struggle,” against “corruption and impunity.”

Robinson’s arrival as ambassador in 2014 saw the American Embassy’s own rhetoric echo the basic URNG themes, using identical wording. On its Spanish-language @usembassyguate Twitter page, the embassy declared its official support for the “struggle” against “corruption and impunity.”

Embassy pressures Guatemala to appoint anti-mining ally to the Constitutional Court This was not a coincidence, but a sign of the successful boomeranging strategy of the INGOs to induce US government action. Guatemalan lawmakers recognized the pattern. They complained that Robinson applied pressure to force them to confirm Porras to the Constitutional Court for a 2016 to 2021 term. That term, in which Porras will serve as the President of the Court, just happened to coincide with litigation affecting the Escobal mine. The litigation was working its way through the Guatemalan Supreme Court, whose 2017 verdict the losing side was almost certain to appeal for final decision by the Constitutional Court.

Was the US Embassy’s support for campaigns against “corruption and impunity” a sincere statement of principle, or was it truly tied to the anti-mine campaign? The evidence shows political expedience to support the anti-mine effort. Before the Embassy even supported Porras, the activist lawyer had become the center of a corruption scandal of her own. Local news reports stated that Gloria Porras, then a magistrate, had distributed large amounts of cash to her fellow magistrates and their legal staff. Transparency from the press reports allegedly forced all but one magistrate to return the money, but “about four hundred thousand dollars’ worth given to the employees” remained missing, according to lawmaker Fernando Linares Beltranena.⁵⁵

“This was a plain and simple act of corruption,” Linares complained in an indignant letter to secretary of state John Kerry. Referring to Porras, Linares said, “Ambassador Robinson’s quest to eradicate corruption in Guatemala contradicts his lobbying in favor of this corrupt justice.”

Robinson had twisted local lawmakers hard. “The president of Congress told all representatives that her appointment was an American government wish,” Linares told Kerry, “so he steamrolled passage, not even allowing debate.” Linares accused the U.S. political attaché of “supervising the vote” in the legislative chamber. Some lawmakers said they feared the embassy would void their U.S. visas if they displeased the American ambassador.⁵⁶ In fact, Linares’ visa had been previously revoked by the State Department in 2007 under Hillary

⁵⁵ Diputado Fernando Linares Beltranena, Jefatura de Bancada Pan, Congreso de la Republica, Guatemala, letter to Secretary of State John Kerry, April 19, 2016.

⁵⁶ Ibid.

Clinton's tenure as Secretary of State.⁵⁷ Robinson did not respond to repeated questions for this paper.⁵⁸

In July 2017, citing indigenous concerns, the Guatemalan Supreme Court forced Escobal to a temporary halt. Tahoe Resources is now faced with appealing to the Constitutional Court, with Gloria Porras presiding.

A month after the Supreme Court verdict, Porras attended a farewell reception for Robinson, whose tour was scheduled to end in October. Local businessmen at the reception say they received the unmistakable message that, under the US Embassy's protection, Porras would be the transformational legal force in Guatemala.

During Robinson's ambassadorship, Tahoe Resources' market capitalization suffered billions of dollars in losses. Tahoe shares were at an all-time high of more than \$27.00 per share in July, 2014. At the time of this writing, Tahoe's share price hovers around \$5.50, slightly above the all-time low.

Conclusion and policy recommendations

The United States Foreign Service and American businesses abroad have little interaction with one another. Changes in the direction of US diplomatic missions in the past decade have linked elements of the professional foreign service more closely with international NGOs that have their own agendas. In some cases, if not many, the foreign service no longer places America first. The international NGO campaign against Tahoe Resources, a US-based and –traded company, serves as an example of a wider problem.

One can conclude the following:

- A global network of INGOs, funded by foreign governments and private donors, has targeted American and Canadian gold and silver mining interests to be disabled or shut down.
- A successful pretext for shutdown is ILO 169, the International Labor Organization's Indigenous and Tribal People's Convention of 1989.
- Advanced technological protections against environmental damage, pollution, and public health do not seem to matter to the INGO networks.
- Adherence to social responsibility codes do not appear to matter.
- Chinese and other non-Anglo (American, Australian, British, Canadian, and New Zealand) metals mining operations are not targets of these campaigns.

⁵⁷ https://www.gpo.gov/fdsys/pkg/USCOURTS-dcd-1_09-cv-01457/pdf/USCOURTS-dcd-1_09-cv-01457-0.pdf

⁵⁸ The author of this paper contacted the US Embassy in Guatemala several times for comment in August and September, 2017, and sent written questions to Ambassador Robinson's personal official email account. Neither the Embassy press office nor the Ambassador responded.

- Grassroots political and NGO networks center around former violent extremist groups that waged years-long guerrilla campaigns, and built almost unbreakable networks of personal and institutional loyalties through years of wartime and refugee hardship.
- The INGOs have successfully enlisted the US State Department to implement its “boomerang” tactic to pressure a foreign government at a crucial time.
- The State Department aggressively intervened to help the NGOs and INGOs transform the local judiciary via pressures that the interested parties could not do by democratic means.
- Some senior career foreign service officers appear to equate US national interests with furthering the agenda of the NGOs and INGOs.

Policy recommendations

- Develop an awareness of how these NGO and INGO networks operate against US business and strategic interests in Latin America and worldwide.
- Develop policies and planning to prevent such NGO/INGO networks from duping, enlisting, or teaming with the State Department or any US Embassy personnel abroad.
- Instruct all foreign service personnel to cease any cooperation with such NGOs and INGOs, and forbid them to intervene with foreign governments on the NGOs/INGOs’ behalf, except as directed by the Secretary of State.
- Transfer or retire all foreign service personnel who cannot abide by the above instructions.
- Make FSO endorsement of, or participation in, INGOs’ boomeranging approach, or any similar approach, a cause for disciplinary action and a barrier to hiring and promotion.
- Change Foreign Service Institute curriculum to view such NGO and INGO networks as potentially hostile actors in an America-First foreign policy strategy, and to promote diplomatic approaches that advance American business abroad in ways that comport to traditional American sovereignty and values.
- Discourage State Department hiring of graduates from university programs that promote diplomatic strategies that diminish US sovereignty or otherwise subsume American national interests to the interests of foreign NGOs and INGOs, and that diminish American supremacy and Western civilizational values.
- Place commercial attachés in charge of all relations with NGOs and INGOs approaching the US Embassy on matters that affect American business.
- Sponsor proactive commercial attaché outreach to American businesses being targeted and attacked by NGOs and INGOs.
- Provide training and personnel support, consistent with the above recommendations, for commercial attachés.

Tagline: J. Michael Waller, Ph.D., is a vice president of the Center for Security Policy in Washington, DC, and the former Walter and Leonore Annenberg Professor of International Communication at the Institute of World Politics. He has been writing about political and social conflict in Latin America for more than 30 years.