

## **THE MINING LAW WILL CONTINUE TO LANGUISH**

In open violation of legislative procedures, the National Congress has rejected enactment of reforms to the General Law of Mining and has recommended to SERNA that a new law be written, in spite of the fact that the Constitution of the Republic of Honduras stipulates that the National Congress has the authority to create, decree, interpret, reform and repeal laws.

This decision, received favourably in some quarters, has grave and worrisome implications for all Honduran men and women, who are awaiting a mining law that will create legal security for all citizens, favour national interests, protect natural resources and care for everyone's health.

The main concern is not, as some believe, whether the law has been reformed or instead is a new mining law. Rather, what we need is a law from the National Congress that will integrate citizens' demands and strengthen and protect the country's well-being, and not that of mining companies, as is the case with the current mining law.

Evidently Congress has decided to avoid making decisions that are within the purview of the Legislative Branch and prefers instead to postpone indefinitely the passing of a legal framework that would effectively regulate mining operations within Honduras.

The decision taken by party leaders in the Legislative Branch means that for at least another year mining companies will continue to enjoy the disgraceful benefits that the "Nation's Fathers" generously gave them in 1998, insofar as Article 220 of our current Constitution says that "No bill of law that has been totally or partially rejected can be taken up again in the same legislative session".

In mid-2002, the Civic Alliance for Mining Law Reform sent a study to the National Congress that explained why the current mining law needs to be urgently reformed. Five years have now passed and Congress, both in the previous and current sessions, has failed to show real commitment to regulating mining activities in an efficient manner, which is at this time one of the Honduran people's most pressing demands.

What is most distressing is that politicians themselves have recognized in their speeches that the current General Mining Law is unjust, harmful and extremely generous to the mining companies. Many have said that reforms, or a new law, are urgently needed, but nothing is being done to transform words into deeds. The people's demands and hopes are being mocked. Every time there seems to be a forthcoming resolution to the current state of affairs, new obstacles, proposals, complaints or different reasons for postponement miraculously appear.

While we the people are being worn down and we debate amongst ourselves or with public officials how the law might be changed, mining companies continue to enjoy the privileges that allow them to abuse and harm people, the environment and the nation.

What is clear is that in recent years the only parties benefiting are mining entrepreneurs who currently pay taxes as a "sign of goodwill" and not because they are obligated to do so by law.

The decision of party leaders within Congress to reject a bill that had already been debated three times and, according to the chairperson of the approval commission, had been modified to incorporate the basic demands of various social groups, simply gives the mining companies a longer grace period. It also means continued problems and suffering by communities affected and threatened by mining activity in Honduras.

True, this struggle achieved an important victory in August 2004 when the granting of further mineral mining licenses was suspended, leaving at least 112 requests for mining concessions in the air, yet we are fully aware of Defomin's statement to the effect that a total of 174 metallic mining concessions have already been granted. We assume that the multinational companies, owners of these concessions, have taken advantage in recent years to further their activities throughout the country, in light of the continuous delays encountered in modifying the Mining Law, and are further exploiting the generous benefits that the current Mining Law grants them. This has been clearly revealed by Defomin's report of August 2006 which states that of the 174 concessions granted, 95 are currently being used to mine mineral resources. This spotlights who the National Congress is really benefiting.

Still, beginning yet another process to gain consensus amongst the various stakeholders might only wear people down further and keep organizations interested in reforming the Mining Law at bay, due to the never-ending debates that would ensue, in which mining entrepreneurs would surely bring pressure to bear in order to maintain their benefits untouched.

Achieving consensus amongst the stakeholders does not guarantee that the principal demands of the people will be approved. These demands include:

- Banning open pit mining;
- Banning the use of cyanide and other toxic substances;
- Guaranteeing the sovereign right of communities to decide if they want mining operations to take place or not;
- Increased fees and taxes;
- Greater environmental protection and regulation;
- Establishment of no-mining areas;
- Defining motives for cancellation, renunciation and suspension of mining operations.

The position of the Civic Alliance for Mining Law Reform has always been that these points not be subject to consensual negotiations with the mining sector. Rather, they should be part of a country's sovereign determination, and therefore congressional deputies should take them into account in accordance with their irrevocable duties as legislators to oversee the citizenry's wellbeing. Yet these are precisely the issues that public servants, lacking courage, have failed to resolve.

In addition to the National Congress, the Executive branch has also helped create conditions which favour the mining companies.

Recently in mid March, a bill for a "New Mining Law" circulated amongst the deputies, supposedly penned by current presidential advisor Nelson Avila. This situation clearly reflects the lack of agreement within civil society, as rumoured, but also the lack of agreement between the Executive and Legislative branches.

The current situation leads us to believe that both the National Congress and the Executive Branch have once again evaded their responsibility to legislate in favour of the people, irresponsibly leaving citizens with the only option of direct confrontation, given the voracity of the mining companies.

## **CIVIC ALLIANCE FOR MINING LAW REFORM**