

## The open-pit metallic extraction dilemma in Panama concerning “Minera Panamá”: between life’s sustainability and nature’s exploitation

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### ABSTRACT

The present article analyzes the sociopolitical crisis in Panama caused by the approval of Law 406 and its implications for the contract with Minera Panamá, S.A. Throughout 2023, the controversy over the lack of transparency and citizen participation in decision-making triggered massive social mobilizations, highlighting the involvement of social movements, trade unions, and young activists who demanded the defense of the environment and national sovereignty. The government’s response was to repeal the law and issue a landmark Supreme Court ruling declaring the mining contract unconstitutional for violating fundamental rights and constitutional provisions that protect natural resources and social welfare. We highlight the diverse positions that arise from the convulsive reality of open-pit metallic mining extractivism in Panama.

**KEYWORDS:** extractivism; sustainability; mobilization; Human Rights; social justice.



## SOCIOPOLITICAL CONTEXT

In 2023, the Republic of Panama found itself immersed in a major social crisis, with the controversy over the approval of Law 406, promulgated in October of that same year, as its epicenter. This legislation sought to ratify and validate a new concession contract between the Panamanian State and Minera Panamá, S.A., a subsidiary of the Canadian transnational First Quantum Minerals. The contract authorized the company to continue exploiting the largest open-pit copper mine in Central America, located in the provinces of Colón and Coclé. However, the way the negotiation and approval of this contract were carried out, marked by a lack of transparency and the exclusion of citizen participation, generated deep unrest across broad sectors of Panamanian society. Diverse organizations, collectives, and citizens expressed concern about the potential negative environmental, social, and economic impacts of large-scale open-pit mining on the country, arguing that the economic benefits to the State were insufficient relative to the environmental risks. These aspects place life at the center, in its multiple determinations. The theme of life recurs in the work of contemporary thinkers such as Leff (2020) and Álvarez Lozano (2023), who have placed it at the core of their reflections.

The approval of Law 406 triggered a wave of protests and mobilizations that brought together a wide range of social actors. Indigenous communities, defending their ancestral territories and the environment, were a driving force throughout much of the struggle, denouncing the threat mining posed to their way of life and culture. Trade unions, representing workers from various sectors, joined the struggle. Environmental groups, social movements, and non-governmental organizations, concerned about the destruction of the biosphere (Hutchinson, 1981) and the contamination of natural resources, joined the protests, demanding the protection of Panama's natural heritage and the Mesoamerican Corridor. Students, academics, and citizens in general, motivated by the defense of national sovereignty and transparency in the management of the country's resources, also actively participated in the mobilizations. This was because the mining contract in question operated as a colonial enclave in the middle of the 21st century, as explained by the former Comptroller General of the Republic, José Chen Barría (2023). Faced with this social pressure, the Panamanian government, led by then-President Laurentino Cortizo, attempted to justify the contract as a source of revenue and jobs for the country. Still, its arguments failed to convince most of the population, which was already aware that the agreement was detrimental and injurious to national interests.

Protests against the mining contract intensified throughout October and November 2023, taking diverse forms. Roadblocks at what became known as “bastions of struggle” along communication routes became a recurring tactic, disrupting the transport of goods and causing shortages of basic products. Marches and demonstrations held in different parts of the country brought together thousands of people from different social classes, with a highly visible youth leadership, underscoring the widespread rejection of the mining contract. Although most of the protests began peacefully, isolated clashes between demonstrators and security forces occurred in some cases, heightening social tensions and raising concerns about respect for human rights. The Cortizo Government was quite permissive toward the protests as a strategy to mitigate discontent, but it did not work. Despite the Government’s attempts to establish dialogue tables with the various sectors involved, no agreement was reached on the demonstrators’ demands, which called for the total repeal of Law 406 and the cancellation of the contract with Minera Panamá, S.A.

The persistence and forcefulness of the protests finally compelled the government to yield and take measures to address society’s demands. First, the repeal of Law 406 was announced, recognizing the mining contract’s illegality. Subsequently, the Supreme Court of Justice issued a landmark ruling declaring Law 406 unconstitutional, confirming the agreement’s illegality and setting an important precedent for the defense and protection of the environment. Because of these decisions, the government ordered the suspension of operations at Minera Panamá, S.A., creating uncertainty about the future of mining activity in the country. While the mine’s closure represented a triumph for social and environmental movements, it also affected the Panamanian economy, particularly the mining sector and the communities that depend on this activity for their livelihoods. Nonetheless, the foundation of these protests lies in the defense of natural resources, the promotion of transparency in public management, and the strengthening of citizen participation in decision-making that affects the country’s destiny.

## THE COURT’S RULING

The Supreme Court of Justice’s decision was based on violations of multiple articles of the Political Constitution of Panama. Article 257, which reserves ownership of subsoil wealth to the State, was violated because the State’s interests in natural resources were not adequately protected. Article 259, which requires that concessions be guided by social welfare and the public

interest, was violated by prioritizing the company's interests over those of the community. Article 266, which mandates transparency in the awarding of public contracts, was violated by bypassing public bidding. Additionally, violations of fundamental rights, including the right to life, health, and a healthy environment, recognized in various constitutional articles (17, 56, 109, 118, 119), were alleged. This concatenation of constitutional violations was a fundamental pillar of the Court's decision.

One of the Court's central arguments was the lack of adequate procedure for the approval of the Contract Law (*Contrato Ley*). The absence of public bidding—a competitive process that allows the selection of the best offer for the State—was considered a violation of the principle of transparency and justice in public contracting. Likewise, the insufficient citizen participation in decision-making affecting the environment and the country's development was criticized. Insufficient prior consultation with Indigenous communities and civil society prevented their concerns and proposals from being considered feasibly, thereby contravening the right to citizen participation.

The Court determined that the Contract Law did not adequately guarantee social welfare or the public interest, as it prioritized the economic benefits of the company *Minera Panamá, S.A.* It was argued that the economic benefits to the State, such as royalty and tax payments, were insufficient relative to the value of the exploited natural resources and the potential environmental and social damage generated. The Court paid special attention to the environmental aspects of the Contract Law. It was argued that the environmental impact study used to approve the contract was outdated and did not reflect the area's current environmental conditions. This generated uncertainty about the potential negative environmental impacts of mining activity, including pollution of water, air, and soil, ecosystem destruction, and biodiversity loss<sup>1</sup> within the Mesoamerican Corridor. Likewise, it was considered that the contract lacked adequate environmental mitigation and control measures to prevent or minimize environmental damage along the aforementioned corridor.

The Court argued that the Contract Law violated various fundamental rights recognized in the Political Constitution of Panama and in international treaties. It was considered that open-pit metallic mining activity could harm the population's health through environmental contamination, thereby infringing on the right to life and health. Likewise, it was argued that the contract threatened

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<sup>1</sup> See Chapter II of *El despertar de un pueblo* (Rodríguez Reyes, 2024).

citizens’ right to live in a healthy, contamination-free environment. Special emphasis was placed on the protection of children’s rights, arguing that the contract put their health and well-being at risk. The Court found certain Contract Law clauses unconstitutional, especially those giving the mining company excessive rights at the expense of State sovereignty and citizens. It questioned clauses allowing the company to appropriate public goods, restrict access to justice, and limit the State’s regulation and citizens’ protections.

The ruling cites Robert Alexy’s theory of balancing, which carries significant weight in the Court’s reasoning. Alexy posits that fundamental rights are “optimization requirements” that must be fulfilled to the greatest extent possible, given legal and factual possibilities. When two fundamental rights conflict—as in this case, the right to a healthy environment and the economic rights associated with investment—it is necessary to conduct a balancing exercise to determine which right should prevail in the specific situation.

The Court prioritized the right to a healthy environment, life, and health over the company’s economic rights, emphasizing these fundamental protections to safeguard present and future generations from potential environmental and social damages caused by mining.

## MARXIST STANDPOINT

From a Marxist perspective, Panama’s 2023 sociopolitical crisis, triggered by Law 406 and the mining contract with Minera Panamá, reflects the contradictions of dependent capitalism in a country in transition. Extractivism—the intensive exploitation of natural resources by mainly transnational companies for export—is key to capital accumulation in the world’s periphery, as I. Wallerstein notes. The open-pit copper mine operated by Minera Panamá functions as a neocolonial enclave, in which foreign capital controls land, minerals, technology, and labor, fostering dependence, inequality, and underdevelopment, as seen in the old, now unconstitutional, contract.

The conflict in Panama reveals the deep class division that characterizes capitalist society. On one hand stands the ruling class, composed of the Panamanian political and economic elite allied with transnational capital, which benefits directly from the exploitation of natural resources. Embedded in a network of economic and political interests, this group uses the State as an instrument to facilitate accumulation, granting mining concessions on favorable terms to companies and repressing popular opposition. On the other hand, we have the working class and other oppressed sectors of society suf-

fering the negative consequences of mining activity: environmental degradation, displacement of communities, precarious labor, health impacts, and the loss of their means of subsistence. The massive and organized protests are, essentially, an expression of class struggle—an attempt by the oppressed to resist exploitation and defend their rights against the power of capital.

Marxist theory conceives of the State as an apparatus of class domination, an instrument the ruling class uses to maintain power and protect its economic interests. In Panama, the State, through the government of the day and the legislative branch, acted in favor of the ruling class by approving the Contract Law and repressing protests. However, the popular reaction and the Supreme Court's ruling demonstrate that the State is not a monolith impervious to social pressures. Class struggle can influence State decisions, forcing the State to yield to popular demands, even if only partially and in a limited manner. The State promotes the mining contract by highlighting economic benefits and job creation, masking environmental and social costs. This “false consciousness” aims to demobilize the population and sustain exploitation.

Marxism, although historically centered on the exploitation of labor, has also developed a critique of capitalism's destructive relationship with nature, exemplified by large-scale mining operations such as Minera Panamá, S.A., which destroy ecosystems, pollute water, deforest, and emit greenhouse gases. These impacts are inherent in capital's drive for short-term profits, which ignores long-term planetary and community costs. Protecting the environment is thus a key part of class struggle, as degradation hits vulnerable groups, a dimension often overlooked by middle-class environmentalists.

From a Marxist perspective, the solution to Panama's crisis does not involve “humanizing” capitalist extractivism but rather overcoming this development model and building an economy grounded in social justice, environmental sustainability, and democratic participation. This calls for rethinking our relationship with nature by prioritizing essential goods and services in harmony with the environment and democratizing control over production for equitable benefits. Panama's fight against extractivism is part of a global movement for social change and a more just, sustainable future for all humanity.

## PRAGMATIC APPROACH

Given the potential reopening of Minera Panamá's copper mine, strict conditions must prioritize social benefits, environmental protection, and

citizen involvement. Some political groups advocate nationalization, but a pragmatic approach is proposed that respects the legitimacy of anti-mining activists. Key pillars include increased royalties and taxes to benefit the public, compensation for environmental damage, and an independent environmental program with citizen participation. Activists opposed to metallic extractivism reject this view.

The contract renegotiation should focus on increasing royalties and taxes payable to the Panamanian State from mineral resource exploitation. Previous laws set low percentages relative to international standards and transnational profits. A new fiscal scheme must allocate significant mining profits to social programs, infrastructure, education, and health. Taxes like income tax should also be reviewed to ensure the State captures more resource rent. Transparency in revenue management is crucial to prevent corruption and to ensure that revenues are used for the benefit of the population.

Mining has caused significant environmental damage in the areas where Minera Panamá, S.A. operates. The company must take responsibility by creating a fund to restore ecosystems, clean contaminated water, and provide healthcare for affected people. Compensation should cover current and potential future ecological damage, as well as long-term cleanup costs. Involving communities and experts in managing this fund is crucial to ensure transparent and effective use of resources.

Implementing an independent environmental program with ongoing input from local communities and experts is essential for sustainable mining and safeguarding people's rights. This program should feature transparent environmental monitoring to prevent harm to water, air, soil, and biodiversity. It must also include mechanisms for citizen participation in decision-making, review of impact studies, compliance oversight, and conflict resolution. Its independence is vital for credibility and effectiveness, free from influence by mining companies or the government.

## ACTIVIST POSITIONING

The slogan "they sold our future," which echoed through the streets of Panama City during the protests, encapsulates young people's deep concern about the long-term consequences of the mining contract. From an intergenerational perspective, young activists see that exploiting natural resources harms their future and upcoming generations through decisions they did not make, limits growth, and causes environmental damage. This contrasts with

the government's short-term capitalist focus on immediate economic gains, ignoring long-term costs.

Young activists demonstrate environmental sensitivity and a commitment to protecting Panama's biodiversity. Their concern centered on the mine's location within the Mesoamerican Biological Corridor, one of the planet's most biodiverse regions, underscoring this sensitivity. Young people understand that mining activity threatens ecosystem health and the survival of numerous species; the biosphere is at stake, and they are convinced that defending their natural heritage is necessary to guarantee a sustainable future for humanity.

Young activists mobilized in large numbers, using patriotic symbols such as the Panamanian flag and the national football team jersey, and singing songs like "Patria" by Rubén Blades to express a strong sense of belonging and reject the surrender of natural resources to foreign companies. They also partly reject open-pit metallic mining, as summarized by the slogan "Panama is worth more without mining," emphasizing the need for a development model that does not rely solely on resource exploitation but instead promotes economic diversification.

## CONCLUSION

The 2023 sociopolitical crisis in Panama, triggered by Law 406, which ratified the contract with Minera Panamá, S.A., exposed deep tensions among the economic interests of large-scale mining, environmental protection, citizens' rights, and national sovereignty. The lack of transparency and citizen participation fueled widespread rejection, culminating in the law's repeal and a landmark declaration of unconstitutionality by the Supreme Court of Justice. The Court's decision was grounded in violations of multiple constitutional articles that guarantee social welfare, public interest, transparency, and fundamental rights, including the rights to life, health, and a healthy environment.

From a Marxist perspective, the conflict is understood as a manifestation of the inherent contradictions of dependent capitalism and extractivism, which function as mechanisms of capital accumulation, perpetuating inequality. The struggle against mining is seen as an expression of the class struggle, in which the political elite and transnational capital oppose the working class and oppressed sectors, who suffer environmental degradation and labor precarity with a sharper accent.

Considering the possibility of a future reopening, two stances are presented. The pragmatic stance advocates strict conditions, such as higher royalties

and taxes, compensation for environmental damage, and an independent, citizen-involved environmental program, to achieve a fairer, more sustainable mining model. The activist stance categorically rejects extractivism, emphasizing environmental protection, intergenerational justice, and the need to build a diversified development model that does not depend on the exploitation of natural resources.

The case of Minera Panamá illustrates the complex challenge of balancing economic development with environmental and social sustainability. Citizen mobilization and the judicial ruling underscore the importance of defending natural resources, ensuring transparency, and promoting citizen participation in decisions that shape the country's destiny. Beyond economic and political views, we must re-evaluate our relationship with nature. Embracing a harmonious, ancestral vision that values life and long-term well-being over short-term exploitation is essential to creating a just, sustainable future.

As Bellamy Foster has posed: "We have to understand how spiritual conceptions, including our spiritual connection to the earth, relate to our material, earthly conditions" (Bellamy Foster, p. 31). From a modern extractivist position, we struggle to consider how to integrate our concrete needs with the cosmologies of ancestral peoples. This is not about returning to an idyllic past. The ancestrality of our Indigenous peoples can teach us to live in a more harmonious relationship with nature. This does not mean that nature is not to be exploited; our existence as a human species depends largely on our relationship with it, as part of a cosmic monotony. ●

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*Juan Pablo García Farinioni:* Research direction and supervision; critical development of the methodological design and theoretical framework; critical interpretation of the data; final review of the content; and approval of the final version of the text.

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