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## [History of a victory for the defense of life in Panama](#)

As a result of massive and continued mobilization of the Panamanian people against mining in an environmentally important and sensitive area of their territory, Contract Law 406 was declared unconstitutional. This law had authorized the operations of Cobre Panamá, a mining subsidiary of one of the largest copper mining companies on the planet, First Quantum Minerals FQM (based in Toronto, Canada). The declaration of unconstitutionality entails, among other things, the cessation of operations and the closure of the mine.

Without a doubt, this outcome sets a crucial precedent for thousands of territorial defense processes around the world, highlighting that victory is possible, even against global corporations that concentrate so much power.

Nonetheless, this is not just the result of actions and mobilizations that took place in October to November 2023. Rather, the history of this struggle dates back more than 25 years. Therefore, it is pertinent to analyze the process in retrospect.

### **What happened before?**

Resistance to mining dates back to the beginning of the 1990s, when prospecting and studies for mining exploitation began. Communities and organizations were worried about the impacts they knew might occur as a result of the mining. In 1996, a concession was granted to the company Petaquilla for gold mining, which later was extended to copper mining. Petaquilla later ended up ceding the concession to Minera Panamá, a subsidiary of FQM.

Concerns about the mine centered on, among other things, its location in the middle of territories with high biological diversity. Mesoamerica joins two huge continental land masses that were separated in previous geological eras; the emergence of this territory meant the appearance of a bridge facilitating the connection and exchange of plant and animal populations. Panama is the narrowest point of this bridge, making it a kind of funnel where much of the subcontinent's biodiversity is concentrated. This landscape is also the territory of indigenous peoples and peasant and local communities. In other words, it is a highly diverse area, not only biologically, but also culturally.

As mining activities began, so did social organization. A committee was formed to shut down Petaquilla about 20 years ago. At that time, though, there was minimal community involvement in the resistance, because communities were hopeful about the mining company's promises of development, employment and welfare. Predictably — as tends to happen with extractive companies — these promises were not fulfilled, which led to dissatisfaction, indignation and, ultimately, to the mobilization of recent weeks. In 2012, there was an attempt to pass a law, popularly known as the chorizo law, which sought to approve mining in Panamanian districts. This sparked more social mobilization. Following the Covid pandemic, the government imposed a discourse about energizing the mining sector for the country's economic recovery. This raised all the alerts, and in May 2021, the Panama is Worth More Without Mining Movement was formed. More than 40 organizations are involved in this movement, explains Damaris Sánchez, an environmental activist from Fundiccep

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Foundation. That same year, a proposal for a moratorium on metal mining was presented but not accepted, as the government remained committed to its project to push mining.

In spite of starting out in a small area, the project which was just stopped encompassed 12,955 hectares and was located in three protected areas: the Omar Torrijos National Park, the Santa Fe National Park, and the Donoso Multiple-Use Area. These protected areas are part of the Mesoamerican Biological Corridor (MBC), created in the early 2000s to ensure ecosystem connectivity from the Darién in Panama to the Mayan forests in Mexico. The MBC links protected areas in order to reduce threats to biodiversity, and it seeks to generate economic and social opportunities for populations in these areas, even though it does not seem to be working as hoped.

Since 1997, the mine has been operating in the area, though not consistently; among other reasons, this is due to the multiple legal cases against it. It has nonetheless caused serious environmental impacts. Communities near the mine have filed complaints and petitions with Panama's Ministry of Environment regarding the changes in water bodies, for example. However, they have not managed to even get an inspection of the contamination. In 2021, a pipe ruptured, causing waste to spill into the Pifá River. (1)

In the framework of Earth Day 2022, the Panama is Worth More Without Mining Movement presented an analysis of several reports from the Ministry of Environment, in which the Ministry itself gives an account of the multiple impacts and legal violations of the Cobre Panamá project. (2) One of the findings is that the company dumps waste into water bodies — including possibly hazardous pollutants such as heavy metals — without a permit from the Ministry. At the time of the Movement's analysis, these legal violations were in addition to more than 200 others that had been identified in previous reports, and the company had outstanding fines adding up to more than US \$11 million in debt with the Ministry.

The impacts on the forest and vegetation are especially noteworthy. These include the felling of 876 hectares of forest in excess of the authorized logging—bringing the total area affected by the project to almost 3,000 hectares. On top of this, the company has failed to comply with reforestation commitments, which are part of the Environment Impacts Assessment (EIA). The assessment identifies failures in the reforestation of 1,300 hectares during the period of 2012 to 2015. (3) It is important to stress that the reforestation mentioned was included as a measure to offset the destruction caused by the logging to set up the mine. In 2016, WRM visited to the area—before the current mining project had begun—to share experiences from elsewhere about offsets as a strategy to make mining viable in protected areas. (4) The company claimed that it was following the International Finance Corporation's standards, on which they based their biodiversity offset plans. The company website states that they "are committed to maintaining a net positive impact on biodiversity and being a global leader in biodiversity management."

In 2017, the mining operation was ruled to be unconstitutional. The ruling was not published in the official state gazette, thereby rendering the ruling ineffective. When it was finally published in 2022, the current government's response was to begin a new negotiation process with the mining company in order to issue a new contract, as community leader and activist Rubén Bernal explains.

## **What happened during the mobilizations?**

The social mobilization began in October 2023 and made international news due to its size and results — as well as because of the repression and criminalization that occurred.

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The government and mining company had been trying to validate an unconstitutional contract, supposedly by correcting errors in the previous one. They were resorting to an aggressive advertising campaign, using various media outlets to show alleged benefits of the mining. However, the reasons for the project's unconstitutionality remained. In debates in the National Assembly, there were voices in favour and against the project. But a positive aspect that stood out in this process was that communities throughout the country were very aware of what was happening. As Damaris Sánchez explains, the process was halted, and private visits to the project area were organized, probably out of fear of this situation. When the debates resumed, the public was prohibited from entering the Assembly building, and in three days the whole process—which should have taken much longer—was completed, culminating in the approval of the Contract Law on October 20. This time, the government made sure to publish the results in the official gazette.

With great difficulty, social movements and organizations obtained and studied the text of the contract, and then presented the outrageous content therein to Panamanian society. This included a 60-year extension of the contract, a ban on air travel over the project area, a 5,000-hectare extension of the concession area, the possibility to extract not only copper, but also gold and other materials, and a prohibition on popular mobilization. As a result, the social movements declared the project a colonial enclave.

Meanwhile, youth in Panama City energized the resistance, playing an essential role in the eventual victory. Their actions included a blockade around the National Assembly headquarters to demand that people be heard. This was used as an excuse by the government to unleash repression. Due to actions on the part of State agents, one youth lost an eye. The incident increased the indignation of the population, who were already suffering from the high cost of living in the country. On October 23rd, people took to the streets, fields, highways, and even to the sea to oppose the passing of the Contract Law. They did not stop demonstrating and mobilizing until November 28th, when the Supreme Court issued the ruling that the Contract Law was unconstitutional.

The first week, until October 29th, was a critical time; in speeches, the President of the country threatened to prosecute protesters. He eventually proposed a referendum, to which the people answered that they were already in the streets, demonstrating their position and their decision. The popular response was to increase the resistance, which ended up paralyzing not only the capital, but all the main activities in the country. Even the Pan-American highway, the main highway in Panama, was blocked.

The forms of resistance were diverse: there were marches, vigils, and blockades; skippers in the port area where the mining company operated lined up their boats to prevent the company from taking out the minerals; doctors and teachers joined in; schools suspended classes. Residents of Colón, Donoso and Omar Torrijos districts, and part of Veraguas—people who previously had not participated in the resistance due to their hopes of work and welfare—joined the resistance. There are estimates that on some days more than 250,000 people mobilized. The whole country was shut down until the demand of the population was fulfilled.

Not even the severity of the repression or lawsuits could make a dent in the mobilization: four people were killed and more than 1,000 were arrested during the demonstrations.

The pressure on the Supreme Court was impressive. A camp was set up around its headquarters for 12 days, making it clear to the judges that they were being watched and that their decision was being awaited. The message was clear: if they ruled in favor of the company, validating an unconstitutional law, there was no telling what could happen in the streets, and the repercussions would be great.

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On November 28th, the Court issued its ruling, confirming that the Cobre Panamá contract is unconstitutional. This legitimizes the people's struggle in the fields, seas and streets. 25 Articles in the contract went against provisions in the Constitution. The Court took into consideration complaints about environmental impacts, as well as the lack of citizen consultation and a public bidding process. The repercussions of the ruling have even led to orders to close the mine, an unprecedented decision in this Central American country.

## Challenges and the future

Through Cobre Panamá, the mining company has stated that "transparency and compliance with the law have always been essential to the development of its operations, and it remains open to constructive dialogue to reach consensus." The next step in the company's version of "constructive dialogue:" First Quantum sued Panama in the International Court of Arbitration ICC. (5)

Community divisions—stoked by private sector actors—leave the challenge of rebuilding the social fabric in some places. Despite this fact, the people's evaluation of the situation is more than positive.

The victory of the Panamanian people sets an example for those who defend forests, territories and the dignity of the people who inhabit them. It is an inspiration for struggles and resistance movements underway all over the planet.

What occurred represents a turning point in the political history and participation in Panama. Indifference was defeated; those who had not participated before became involved in the mobilisations. And communication was popular in nature, marking independence from traditional and corporate media.

The struggle continues, so that in the future, mining will be prohibited in the country's Constitution.

## WRM International Secretariat

(1) Article [“Panama: a call for environmental justice and against metal mining”](#), at Hora Cero, by Krissia Girón.

(2) [Declaration from the Movimiento Panamá Vale Más Sin Minería](#) (Movement Panama Is Worth More Without Mining).

(3) Idem 2.

(4) Article [“Environmental offsets in Panama: A strategy that opens up protected areas to mining”](#), from the WRM Bulletin, by Teresa Pérez.

(5) Article [“Panama Protestors Defeat First Quantum Minerals’ Copper Mine”](#), at CorpWatch, by Paula Reisdorf.