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**Mining the Depths of Corruption:
New Report Exposes Omissions and Misrepresentations in Nevada-based Mining
Company's Claims in \$400 million Suit against Guatemalan Government**

Washington, D.C. — A critical new report exposes omissions and misrepresentations in a Nevada-based mining company's more than \$400 million suit against the Guatemalan government.

Released August 24, [***Mining Injustice Through International Arbitration: Countering Kappes, Cassidy & Associates' Claims over a Gold-mining Project in Guatemala***](#), examines Kappes, Cassidy & Associates (KCA)'s attempt to strong-arm the Guatemalan government through international arbitration into green-lighting the unwanted El Tambor gold mine — or compensating the mining firm for hundreds of millions of dollars in future profits it had little hope of ever earning.

"KCA bought the project knowing there was social conflict and despite this, they pressured the government to repress us. That's exactly what happened on May 23, 2014 and how they managed to operate for two years," remarked **Álvaro Sandoval, member of the Peaceful Resistance La Puya, which has maintained an encampment outside the mine gates for the last eight years.**

"KCA, its subsidiary EXMINGUA, and their Canadian predecessors, took advantage of the legal and institutional leniency of the Guatemalan state toward extractive industries. This, coupled with rampant government corruption and privileged connections allowed KCA to meet its

objectives: consolidate the mining project while riding roughshod over community opposition. KCA knew that, at the end of the day, international arbitration could guarantee them millions in profits,” remarked **Guatemalan investigative journalist and report co-author Luis Solano**.

As the report illustrates, KCA enjoyed immense privileges in Guatemala. The company managed to obtain its operating license despite a mining moratorium and a woefully incomplete environmental impact assessment. It built its mine without a construction license and through violent repression of local communities by private security and state-armed forces under a corrupt government. Unwavering community opposition and legal actions halted the project in 2016. With the company’s leadership under criminal investigation and its mine suspended, KCA turned to Investor State Dispute Settlement (ISDS) under the terms of the Central America-Dominican Republic Free Trade Agreement (CAFTA-DR) with the US.

“Riot police attacked peaceful protestors, paving the way for the company’s short-lived mining operation. In its arbitration filings, KCA carefully avoids any mention of this violence, instead accusing the Guatemalan government of not doing enough to protect its investment. It is scary to think what further harm might be brought to communities from more protection of this sort,” said **Ellen Moore, International Mining Campaign Manager, Earthworks, a co-author of the report**.

KCA’s lawsuit is emblematic of the disturbing trend of mining companies using ISDS to sue governments when their investments face opposition from local communities. Arbitration suits like this are made possible by International Investment Agreements, and are disproportionately brought against governments in the Global South, especially Latin America. The report’s examination of KCA’s lawsuit exposes a supranational arbitration system that ignores or even awards corporate abuses by enabling private companies to sue national governments over matters of public interest, such as the devastating social and environmental impacts of mining.

“KCA’s arbitration against the government of Guatemala is very worrisome. If the tribunal rules against Guatemala, this could have a terrible domino effect that puts communities at risk, in which extractive companies that have violated human rights resort to supranational arbitration, such as before ICSID, with the objective of claiming compensation from Guatemala for not letting them operate freely,” commented lawyer **Carlos Martínez from the Guatemalan Human Rights Law Firm**.

“ISDS is evidence of stark asymmetries entrenched through free trade agreements. While they enable transnational corporations to throw their weight around with damaging suits even as companies disrespect people and the law, affected communities are putting their lives on the line to protect their water and health from mining’s negative impacts with few legal protections and constant threats of violence and legal persecution. These suits reveal profound injustice built into the system,” said **Jen Moore, Associate Fellow, Institute for Policy Studies, a co-author of the report**.

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