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LADB Staff

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Labor Court Denies Injunction Sought By Striking Miners In Sonora; Workers Continue To Blockade Cananea Copper Mine

by LADB Staff

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In the latest salvo in the nearly 30-month strike at the Cananea copper mine in Sonora state, a labor court ruled in early February that mining company Grupo Mexico has the right to terminate workers' contracts at the facility. The ruling escalates the threat of violence at Mexico's largest copper mine, which striking workers have held since July 2007. Grupo Mexico has talked about resuming operations at the facility but has not yet taken any action because of the threat of violent clashes with the strikers. The court ruling came just days before the fourth anniversary of the fatal explosion at the Pasta de Conchos mine in Coahuila, also owned and operated by Grupo Mexico. Critics say the company and the government have not done enough to clarify the causes of the accident, compensate the families of the victims, and recover the bodies of the 63 workers still in the rubble.

Decision allows company to nullify collective-bargaining contract The decision by the Segundo Tribunal Colegiado en Materia de Trabajo to grant Grupo Mexico the right to terminate the striking workers' contracts gives the company the upper hand in the conflict with strikers from Local 65 of the Sindicato Nacional de Trabajadores Mineros, Metalurgicos y Similares de la Republica Mexicana, (SNTMMSRM). The court decision is the latest development in the tug-of-war between Grupo Mexico and SNTMMSRM members, who walked off the job in July 2007 to protest low pay and poor health and safety conditions at the open-pit mine. In January 2008, the Secretaria del Trabajo y Prevision Social (STPS) declared the strike illegal, but workers were able to win an injunction (SourceMex, January 16, 2008). Grupo Mexico, which had been responsible for about 40% of Mexico's copper production, then brought the matter to a federal labor arbitrator (Junta Federal de Conciliacion y Arbitraje, JFCA) in 2009, invoking a clause in the federal labor law (Ley Federal del Trabajo, LFT) that allows a company to declare force majeure because of damage to its facilities (SourceMex, April 15, 2009).

The JFCA agreed with Grupo Mexico's argument that the LFT clause was applicable in this case, giving the company the right to end a collective-bargaining contract and dismiss striking workers. The union then appealed the JFCA ruling to the federal labor court. In February of this year, the court rejected the union's request for an injunction, allowing Grupo Mexico to proceed with its plan to dissolve the collective-bargaining contract with the SNTMMSRM. "As of today, the collective-bargaining contract with the mining union does not exist," Cristina Rocha, an attorney for Grupo Mexico said on Feb. 12, the day the court announced its ruling. "They have to turn over the installations at the Cananea mine." SNTMMSRM attorney Carlos de Buen said the court's decision exhausts all legal avenues in Mexico for the union. And even if other legal options were available, the union has very little money left to mount another appeal, said the lawyer. The union, which denied the company's charges that workers damaged equipment and electrical and water systems,

insists that the takeover will continue. "Of course we will not leave the mine installations," Javier Zuniga, a spokesperson for SNTMMSRM Local 65, said in an interview with Reuters.

A group of strikers turned on several pieces of machinery and equipment to dispute the company's claim that the strike had made the facility inoperable. Strikers fear government will use violence to dislodge them. Zuniga said the union fears that the court decision gives Grupo Mexico and the federal government an excuse to send police or military personnel to retake the facility. "We will respond with our hands to any aggression by the security forces....We are on red alert," Zuniga said. Grupo Mexico says it plans to eventually reopen the mine and at that time rehire some of the skilled workers who had previously accepted severance pay. "We can say that they are on the top of the list," said Juan Rebolledo, the company's vice president for international relations. But the resumption of operations at Cananea remains uncertain as long as the strikers continue to control the facility.

Dozens of miners are blocking access to the mine around the clock, so the company cannot regain control of the facility without the use of force. The Mexican Congress, led by the Partido Revolucionario Institucional (PRI) and center-left legislators, has suggested that Grupo Mexico and union representatives return to the negotiating table to hammer out a compromise. Some PRI members who represent Sonora have even suggested that the Calderon administration revoke Grupo Mexico's license to operate Cananea because of "damage the company has inflicted on the community." This position has put those legislators at odds with the mining industry chamber (Camara Minera de Mexico, CAMIMEX), which represents 137 mining companies in Mexico. The chamber is suggesting that the Mexican Congress take the rule of law seriously, especially since the courts have found in favor of Grupo Mexico. But most members of Congress urged Calderon to pledge that the federal government would not use force to resolve the conflict and to promise that the rights of the strikers would not be violated.

Tug-of-war between government, union president Some observers view the conflicts at Cananea and Pasta de Conchos with a wider lens, suggesting that it represents a clash between the generally anti-labor policies of the pro-business Partido Accion Nacional (PAN) and the SNTMMSRM, a corrupt union that thrived under successive PRI administrations. Some say that the dispute would have been resolved much earlier if there had not been a conflict between the PAN-led governments, first led by ex-President Vicente Fox and later by Calderon, and union leader Napoleon Gomez Urrutia. The SNTMMSRM leader, who remains in self-imposed exile, continues to direct much of the union's policies from his temporary home in Vancouver, Canada. Gomez Urrutia has accused the PAN of conducting a witch hunt against him, partly based on the government's decision to withdraw recognition of him as head of SNTMMSRM in 2006 because of charges that he embezzled union funds and conducted other acts of corruption (SourceMex, May 03, 2006).

Gomez Urrutia then fled to Canada but has continued to head the union with the support of the rank and file, which has voted to re-elect him in absentia as their secretary-general (SourceMex, April 25, 2008). There is no doubt that Gomez Urrutia has a hand in the union's response to the conflict with Grupo Mexico and the government regarding the Cananea mine. In a telephone statement, he rejected the labor court's decision, which he said was based on false documents. The SNTMMSRM, having exhausted all legal options in Mexico, has decided to take the dispute to

international bodies. Marco Antonio del Toro, the union's attorney, said the SNTMMSRM plans to file a complaint against the Mexican government before the Inter-American Court of Human Rights (IACHR) in San Jose, Costa Rica, on charges that it violated the principle of due process by not allowing further appeals. The complaint says the government's actions threaten the jobs of hundreds of miners.

Other labor organizations have joined in expressions of solidarity with the SNTMMSRM, particularly the independent Union Nacional de Trabajadores (UNT) and the Sindicato Mexicano de Electricistas (SME), which represented workers of the now defunct public utility Compañia Luz y Fuerza del Centro (CLFC). The Calderon government shut down the CLFC in October 2009, citing management irregularities and corruption, which were making the company extremely inefficient (SourceMex, October 21, 2009). Operations were transferred to a larger public utility, the Comisión Federal de Electricidad (CFE). SME leader Martín Esparza Flores said the shutdown was in part an effort by the Calderon government to repress the union and a reflection of the administration's general anti-labor policies. The actions against the union are another example of the administration's anti-labor stance, added Esparza, who called on all of Mexico's labor groups to show solidarity with the Cananea mine workers.

The UNT dispatched members to the Cananea mine to form a "peace circle" around the site, thus preventing police or Army personnel from moving in and dislodging the miners. The unions and some legislators from the PRI and center-left parties have not hesitated to criticize what they view as the Calderon government's excessive pro-business policies. "Calderon said he was going to be the president of 'job creation,'" said PRI Deputy Miguel Ernesto Pompa Corella. "But he didn't tell us that he was also going to be the defender of big capital to the detriment of workers in our country." In addition to anger against the president, much of the anger has been directed at Labor Secretary Javier Lozano Alarcón, who is said to be close to many corporate leaders, including German Larrea of Grupo Mexico. Lozano, who has threatened to file a lawsuit against the union workers occupying the Cananea site, was very pleased with the labor court's decision to deny the union's injunction against the JFCA.

PRI legislators, along with counterparts from the PRD, the Partido del Trabajo (PT), and Partido Convergencia por la Democracia (PCD), have sharply criticized the court decision. They said Lozano pushed strongly for the court to rule against the workers. "[The recent court decision] creates an obstacle to a just, dignified, and negotiated solution to this conflict," said a statement from PRI legislators. The statement cited "evidence of an institutional push" for this legal decision, supposedly led by Lozano. Advocates urge government to clarify Coahuila mine explosion in 2006. Lozano is also at the center of the controversy regarding the Pasta de Conchos situation, with labor organizations, human rights advocates, and others accusing the labor secretary of ignoring the needs of the families of the miners who died in the February 2006 explosion.

The incident killed 65 miners, who were trapped underground when the coal mine collapsed (SourceMex, March 01, 2006). The government was able to recover the bodies of two victims, but 63 others remain in the collapsed mine. Some critics say the government has not done enough to create conditions at the mine to recover the bodies of the miners who remain underground. Members of the farmers organization El Barzon Popular plan to camp out in front of Lozano's house

in Mexico City until the government authorizes a recovery operation. The government contends, as it did in 2007, that conditions at the mine remain too dangerous to retrieve the bodies (SourceMex, October 14, 2007). But the protests go beyond a demand that the miners' bodies be recovered. The US labor union United Steelworkers (USW) and the Mexican human rights organization Centro de Derechos Humanos Miguel Agustín Pro Juárez (PRODH) filed separate legal actions on Feb. 19, the anniversary of the explosion. Both actions, filed on behalf of the victims' families, ask that Grupo Mexico and the government release detailed information about the circumstances that led to the accident and fully compensate families for their losses.

The USW filed a lawsuit in a US District Court in Phoenix against Grupo Mexico and several of its subsidiaries alleging that the company "failed and refused to take the necessary steps to prevent the disaster" and that the defendants are "liable under both federal and state law for damages." The USW was able to file the lawsuit in Phoenix because Grupo Mexico's subsidiary Asarco is based in Arizona. PRODH brought its complaint before the Inter-American Commission on Human Rights (IACHR) in Washington, DC, asking for a full investigation. The action seeks to "find justice and full compensation" for the damage caused to the families. "The circumstances of the accident have as yet not been clarified," said PRODH. "This is despite a report from the International Labor Organization (ILO) that the accident was the result of negligence by the state."

On the day the complaint was filed with the IACHR, PRODH representatives joined several human rights advocates at a memorial mass in front of the Grupo Mexico headquarters in Mexico City. Bishop Raul Vera of the Diocese of Saltillo in Coahuila state presided at the mass. "They don't want us to know the truth regarding the causes [of the accident] and the exact time when our brothers died," said Bishop Vera, referring to theories that some of the victims were left to die in the mine even though officials knew they were still alive. "The bones have memory, and that is what they are hiding."

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