

**RIGHTS ACTION Report**

October 18, 2009

**MINING & THE DEATH OF A MAYAN TEACHER**

**HUSBAY MINERALS/ CGN SECURITY FORCES KILL ADOLFO ICH, A MAYAN TEACHER, APPARENTLY TARGETED FOR HIS DEFENSE OF INDIGENOUS AND HUMAN RIGHTS**

**FOR INTERVIEW & MORE INFORMATION**

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This report is based on eye witness testimony and reports from human rights organizations gathered between September 29 and October 10, 2009.

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**VIOLENT IMPOSITION OF THE FENIX NICKEL MINING PROJECT**

Toronto-based HudBay Minerals, through its subsidiary the Compania Guatemalteca de Niquel, CGN, is developing the Fenix Project, expected to be one of the world's largest nickel mines, in a Maya Qeqchi region of Guatemala in which organized crime has come to virtually control the State, particularly the justice system.

HudBay/CGN has fomented paramilitary organizations that commit acts of violence and human rights violations of Maya Qeqchi communities, in direct collaboration with the HudBay/CGN private security force and with the National Civil Police and Army.

On Sunday, September 27, Mynor Padilla, head of security for HudBay/CGN's Fenix project, killed a teacher (Adolfo Ich) as Adolfo attempted to protect children from the

security force's indiscriminant shooting which left another community member paraplegic and at least four more wounded.

#### BUILD UP TO ANOTHER KILLING

The history of repression against Maya Qeqchi communities in this region related to furthering the interests of global nickel companies date back to the 1960s. On request Rights Action can provide background articles.

During the week prior to the September 27, 2009 killing of Adolfo Ich, HudBay/CGN security forces, accompanied by paramilitary forces under the command of Mynor Padilla, visited the isolated Maya Qeqchi community of Las Nubes several times, telling community members they would have to leave the area, to make way for HudBay Minerals, though no proper eviction order was ever presented.

Just like previous mining companies (INCO/Exmibal and Skye Resources), It is reported that HudBay/CGN is not able to demonstrate clear title to the land. There are several cases in which land titles have been acquired by illegal means, or boundaries of properties have been illegally altered in order to gain access to land.

Also, according to international law the Guatemalan government has the obligation to consult with and get the consent of indigenous communities concerning "development" projects, such as mines. This has never occurred in El Estor – neither in the 1960, 70s and early 80s, when the first wave of nickel mining began, nor in the 2000s, when this second wave began.

On September 23, a HudBay/CGN contractor began building a guard post where the Las Nubes community meeting structure is located – with no permission from or discussion with the Las Nubes people. On Friday, September 27, approximately 50 armed men arrived in Las Nubes - HudBay/CGN security forces and armed paramilitaries were accompanied by 5 National Civil Police agents. The head of security for Hudbay/CGN demanded that community members gather in the meeting house.

When the population did not respond to their demands, the armed men began to destroy the community meeting place. Men, women and children ran to the defense of this humble, but important, dirt-floor community structure. HudBay/CGN security forces began to back away when the head of security – Mynor Padilla - ordered them to shoot on the population, or lose their jobs. They first fired rubber bullets and then live ammunition. The population fled and some were injured by the rubber bullets. HudBay/CGN security guards left the town.

The police officers, who had distanced themselves during the outbreak of shooting, then approached community members saying they never heard of Hudbay/CGN security forces acting in such a way, that the population should come with them to make a denouncement. Fearing that that the police were participating in a trap intended to result in the massacre of the community, they refused to go.

In the past, police officers have acted in close coordination with HudBay/CGN security forces in numerous acts of violence and intimidation, including a series of

violent evictions in 2006 and 2007 that included the rape of women. The local police station is located inside Hudbay/CGN offices.

Later that day a group of community members went to the Justice of the Peace to denounce the attack, but were sent to the police station, where they filed the complaint.

#### THE DAY OF THE KILLING

On Sunday, September 29, the Governess of Izabal, accompanied by HudBay/CGN security forces and transported in HudBay/ CGN 4X4 vehicles, drove up into the Las Nubes community. The Governess has had a close relationship with Hudbay/CGN over the past few years. She told community members she was there to help negotiate the conflict and that the company had rights to the land.

Since no judicial process has determined the validity of HudBay/ CGN's land title or land rights, this is outside of her capacity to determine and an abuse of authority. At approximately 12:30 in the afternoon she left, security forces remained for another hour.

At about 2pm, a group of about 20 people from Las Nubes came down from into El Estor. There, they met up with people from the community of El Chupon, another community being negatively affected by the mining interests of HudBay/CGN, and attempted to block the road in front of the HudBay/CGN complex in protest of the attempted illegal evictions of the Las Nubes community.

The Governess drove through the protest. HudBay/CGN security forces drove through, then doubled back and went to the abandoned mine processing plant, where they were joined by paramilitaries. While one contingent returned to the site of the protest, a second contingent took a back road that enters the La Union community and a back entrance in to the HudBay/ CGN complex.

#### THE CROSSFIRE

The HudBay/ CGN complex contained an unmanned hospital and an unmanned National Civil Police station. When the HudBay/ CGN security forces and paramilitaries, who had continued on the main road, advanced against protesters, some retreated into the HudBay/ CGN complex, where the other armed contingent had entered, and the protesters were trapped between the two armed contingents.

The HudBay/ CGN forces (official and paramilitary), in an apparent attempt to incite or "criminalize" the protest, began damaging to the HudBay/ CGN hospital. The crowd, angered by these actions and the lack of action by National Civil Police to stop the armed men, began throwing rocks at the police station. Around 3pm, security forces and paramilitaries began firing on the crowd from two directions.

The Maya Qeqchi community of La Union is located immediately beside the HudBay/ CGN complex, and children were playing close to the gunfire. Parents from La Union ran to the scene and approached the head of the HudBay/CGN security beseeching him to stop the gunfire to save the children. He sprayed their faces with pepper gas,

and when one woman fell down from the effects of the gas, security forces struck her with a machete.

A teacher from La Union, Adolfo Ich, came with the parents. Padilla then called him by name, saying he would dialog with him for the children's safety. When Ich stepped forward, Padilla said "Hey you, I have been looking for you." Padilla grabbed Ich, dragged him a short distance, shot him in the neck, and members of his security force struck him with machetes. They dragged him into the abandoned HudBay/CGN hospital.

Witnesses claim that during this time, over one hundred police and military were standing in the road between El Estor and the HudBay/CGN complex.

At approximately 4:30pm, Adolfo's son received a cel-phone call from Adolfo, in which Adolfo told him that he was being held in the HudBay/CGN hospital and he was hurt. Family members immediately ran to the hospital and found their father, alive, in a storage room of the hospital. However, the paramilitaries were returning to the area, firing at people still running from the area, so Adolfo's family hid. Approximately a dozen paramilitary remained outside the hospital, and slowly left until just one remained, but this prevented them from taking their father for help.

After receiving the initial call, other family members began calling for help anywhere they could, asking for an ambulance to be sent. They called the Human Rights Procurator (PDH) office and asked that the PDH convince the company security to let an ambulance through. The PDH said to call back. Ten minutes later, the family again called the PDH, and they were told an ambulance could come through if they "turned in the guns."

The family was shocked by the repeated demands for guns they did not obviously have. At the time the shooting began, at approximately 3 pm, approximately hundred police and military were just a few blocks from the HudBay/ CGN complex, and did nothing to intervene in the incident or to facilitate the entry of emergency medical support to where Adolfo Ich was being held by the paramilitaries, despite requests from family members of the victim.

Finally at around 6pm the last gunman left and Adolfo Ich was found in a storage room in the hospital, still alive but unconscious. Family members carried him home but when they arrived his heart had stopped.

(The exact spot where Adolfo Ich was killed, at the mining complex, is where his wife's father and his own parents had, for generations, farmed, until in the 1960s a "Private Property" sign appeared. INCO/Exmibal, the Canadian mining company (that in 2004 sold its concession to CGN - first owned by Skye Resources, and then by HudBay) claimed to have "legally" acquired the land and forced the communities, through intimidation and violence, to abandon their lands.)

At around 7 pm, police approached the house of Adolfo Ich, asking if the regional Public Prosecutor could come to retrieve the body. At 1:30am the public prosecutor arrived, accompanied by approximately 80 police. Upon entering the home the police immediately demanded that the family turn over "the guns."

In addition to the killing of Adolfo Ich, several other people were shot that afternoon by HudBay/CGN security and paramilitary forces. These include Hernan Chub, a twenty year old who is expected to remain a paraplegic, and four others.

HudBay/CGN security, including the head of security responsible for Adolfo Ich's killing, visited the hospital with the apparent intent to intimidate the wounded.

#### A SECOND ATTACK – POSSIBLY RELATED

At approximately 1am the next morning, around the time the public prosecutor arrived at the home of Adolfo Ich, a mini-bus with 14 leaders from other Maya Qeqchi communities (that have had land conflicts with HudBay/CGN) left for a workshop in Coban which had been planned several weeks prior. Though they had heard of the problems in La Union, they left from a village many kilometers down the main dirt road in the region.

At approximately 4am the bus was machine-gunned on the road by at least four heavily armed, camouflaged and masked men. Some of the occupants were robbed and others not. They were taken from the mini-bus and lined up in the road, face down. The attackers attempted to run the bus over them, but due to the extent of the gun damage, they had trouble getting the vehicle started.

The victims ran into the bushes. The attackers fired on them as they ran, but since there was no moon they were able to hide. Six men were injured by gunfire, two shot in the head, one of them lost an eye. Fortunately, no one died during this attack (as originally suggested), though two of the bullet wounds are serious.

There is no crystal clear proof that this attack is linked to the killing of Adolfo Ich, hours before, but most villagers in the region believe they may be linked: because of the long history of repression against people resisting mining; because the victims were from mining affected communities resisting the mining company; because two men, identified as members of HudBay/ CGN security forces, were sighted on the road not far from the assault shortly after the attack; because of the dress and weapons of the assailants.

#### MINING & MILITARIZATION

The town of El Estor is currently under a virtual occupation by military forces, including the Guatemalan army's infamous "Kaibiles" special forces (infamous for their well-documented, brutal, widespread repression and terrorism in the 1980s, 90s) which have been, more recently, linked to criminal activities, including drug trafficking.

Kaibiles constantly pass in front of the home of the family of Adolfo Ich, even appearing during Tuesday's funeral in the cemetery.

The Kaibiles are transported around the region in vehicles belonging to HudBay/CGN, but without license plates. The Kaibiles maintain a strong presence in the home of Mynor Padilla, and in the homes of families that participate in the paramilitary group.

## WHY THE ATTACKS AND KILLING OF ADOLFO ICH?

There are many reasons why Adolfo Ich, an important and well regarded community leader in La Union and the area of El Estor, may have been targeted by HudBay/CGN.

On September 22, Amnesty International visited El Estor to learn of the abuses by HudBay/CGN, and was accompanied during the visit by Adolfo Ich.

On September 11, a group of communities affected by the mining company asked HudBay/CGN representatives to attend a public meeting to address the communities. Government authorities and human rights organizations were called to this meeting. HudBay/CGN did not show up.

In the meeting, a clear message was presented by the communities that HudBay/CGN leave El Estor, that the indigenous communities of El Estor had never been consulted about the mine, as international law requires, and that the communities of El Estor reject mining. Adolfo Ich's wife was the most visible figure presiding the meeting.

During the meeting, Adolfo Ich gave a moving public statement, pronouncing his clear stance against the mine, saying that even if the company killed him at least he knew that it would be because he stood for what was right.

## RAMIRO CHOC – POLITICAL PRISONER

It is also important to note that Adolfo Ich's wife is the sister of Ramiro Choc, a well known political prisoner in Guatemala who has been demonized in Guatemalan press as a terrorist leader of an armed movement.

In the 1990s, Ramiro Choc worked for the Catholic Parish of El Estor, his home town, and then went on to work with CONIC, a national campesino organization. In 2000 he stopped working with CONIC, though his wife continued with the organization.

Communities from Livingston, a Maya Qeqchi area close to El Estor, asked that Ramiro work with them. He worked with the traditional authorities in the villages, giving workshops about indigenous rights, the Constitution and analysis of the problems they faced.

In June 2007, these communities coordinated a regional encounter between communities. On June 6, 2007, shortly after the encounter, a violent eviction (during which an 8-year old child was killed) occurred in the community of Barrio de Buena Vista - a community which had not been participating in workshops or encounter. Due to that violent eviction, Choc was introduced to the community.

A few weeks later, on June 27, three hired gunmen entered the community firing off guns and looking for community leaders. The population came together and were able to capture the gunmen, but received some injuries. The gunmen were tied up, while community members ran to find the police, the nearest station being the "tourist" police, who refused to come.

The community then called all the authorities they could, including the Agrarian Secretary, the Governess and the Human Rights Procurator. When a representative of the Agrarian Secretary's office arrived and threatened to destroy the negotiation agreements over the communities' land titling issues if they did not release the gunmen, the people became angry and captured him.

The Agrarian Secretary's office then called Ramiro Choc, who was an hour away in another community, and asked him to come out and mediate the conflict. He complied with the request and was able to calm the situation.

#### CRIMINALIZATION OF THE STRUGGLE FOR RIGHTS – USING THE LEGAL SYSTEM AS A TOOL OF REPRESSION

Several months later, on February 14, 2008, the police stopped a bus Ramiro was on and detained him. According to Choc they took him to an empty field where they said they told him they would kill him. He told them of the phone call he had made when the police boarded the bus, advising community leaders that he had been detained. When the police saw the register of the call on the phone, they put him back in the car. Only then did they then take him to a judge's office, five hours after he had been detained. Five days later he was first presented to a judge and over a year later went to trial.

While Ramiro was held by police, communities he had worked with undertook several protest actions calling for his release. Press reports of these actions and supposed investigations of Ramiro Choc have been grossly distorted in a way that portrays Choc to be a leader of an armed terrorist movement.

Choc was tried on three charges: land usurpation, illegal detention and aggravated robbery. The first two charges were dropped since the supposed land owner of Barrio de Buena Vista was unable to demonstrate land rights and the Agrarian Secretary testified that Choc had not participated in detentions.

The aggravated robbery charge was based on a claim by three police officers that Choc had stolen a gun from them during the events of June 27, 2007. Witnesses confirmed that police had not arrived in the incident. The Governess in charge of overseeing police forces claimed she had not been informed of missing weapons, and the police were unable to present documentation to confirm the chain of custody of the guns prior to the alleged robbery.

Regardless, Choc was sentenced to eight years in prison on charges of the robbery of weapons.

\* \* \*

Similar to falsely charging Ramiro Choc with stealing guns, in the case of the community of Las Nubes and the murder of Adolfo Ich, references by justice administration authorities to "the guns" was quickly understood as an attempt to criminalize the Maya Qeqchi communities that were actually victims of the September 27th attack by HudBay/CGN security and paramilitary forces.

These relentlessly repetitive false allegations are spreading. Hudbay/CGN has published, on their website, a report in which they claim that protesters stole weapons from the National Civil Police Station during the protest.

The level of manipulation, discrimination and even illegitimacy of the Guatemalan justice system is evidenced by the manner in which authorities, early in the investigation, gave credence to these false claims, even as the paramilitaries employed by HudBay/ CGN are widely known to belong to networks of organized crime, and some of their close associates have even been extradited.

#### GIVEN THE SITUATION DESCRIBED ABOVE, RIGHTS ACTION FINDS:

That State agents, such as the Governor of Izabal and the National Civil Police, have committed grave violations of human rights both for lack of intervention in incidents of violence and for direct participation in human rights abuses;

There is a pattern of criminalization of indigenous communities and human rights defenders in the region which is demonstrated both by the accusations of stealing arms generated by HudBay/ CGN and the 'false flag' operations in which vandalism is carried out by HudBay/CGN's own security forces in order to incite the population;

That the events which took place in September 2009 fit into a pronounced pattern in the region in which economic interests - in this case HudBay/CGN, their security forces, paramilitaries, State authorities and organized crime - promote violence, repression and human rights abuses against communities affected by their activities.

#### RIGHTS ACTION IS EXTREMELY CONCERNED:

For the safety of the family of Adolfo Ich, other victims and the witnesses to the September 27 attack by CGN / HudBay security;

That evidence related to the crimes described above may be manipulated or destroyed;

That authorities may attempt to criminalize the family of Adolfo Ich and communities in El Estor.

#### RIGHTS ACTION DEMANDS THAT:

The Guatemalan Government immediately initiate administrative actions to suspend the mining license possessed by HudBay/CGN, given the grave threat to the lives, security and fundamental human rights that the mine, and its security forces (and paramilitaries) pose to communities in the area;

That HudBay/CGN executives and members of the board, as well as their security forces, be investigated for their possible criminal responsibility in the events described;

That the Canadian government take action to investigate and sanction the company for its actions and or inactions in the rise in tension, violence and lethal attacks;



That the Canadian Pension Plan (and any other pension and investment fund, with funds invested in Hudbay Minerals) get directly involved in demanding a public and impartial criminal investigation of the recent and lethal events of repression and that Hudbay security forces be directly investigated for their alleged criminal activities;

That multilateral development banks supporting mega-tourism projects, bio-fuel production initiatives and other mega-“development” projects in the area suspend investment in the region (Polochic Valley and Livingston), investigate violations against the communities they impact and take measure to indemnify the victims;

That the investigation and prosecution of the cases described above be transferred to a special prosecutor in Guatemala City and that the International Commission Against Impunity in Guatemala (CICIG), a special investigation and prosecution initiative under the auspices of the United Nations, participate in the investigation and prosecution of the cases.

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## **WHAT TO DO**

WRITE TO HUSBAY MINERALS – WITH COPIES TO YOUR OWN POLITICIANS – ASKING THEM:

To suspend all work at the Fenix Project mine site;  
To make public which of their private security forces were involved in the one attack, and possibly both attacks;  
To fully cooperate with any and all investigations – legal or otherwise – that look into these crimes.

HUSBAY MINERALS

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Peter R. Jones, Chief Executive Officer and Director  
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John Vincic, Investor Relations and Corporate Communications, 416.362.0615,  
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CANADA PENSION PLAN (As of March 2009, CPP owned 882,000 shares, worth \$5,000,000)

Write to the CPP – with copies to your own politicians – asking them:  
What is their policy in terms of investing in companies operating in violent and repression situations (as nickel mining in Guatemala has been for years)?  
To withdraw their investments from the CPP;

CANADA PENSION PLAN Investment Board  
[csr@cppib.ca](mailto:csr@cppib.ca), 416-868-4075, Toll Free: 1-866-557-9510  
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Write to your own pension fund, and ask whether they are invested in Hudbay.

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TO DONATE TAX-DEDUCTIBLE FUNDS to indigenous and campesino groups promoting their own community development projects and resisting the harms and violations of mining & hydro-electric dams, make tax deductible donations to "rights action" and mail to:

UNITED STATES: Box 50887, Washington DC, 20091-0887  
CANADA: 552-351 Queen St. E, Toronto ON, M5A-1T8  
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Upon request, Rights Action can provide a proposal of which community organizations resisting the harms and violations caused by mining in Guatemala and Honduras we are working with and channeling your funds to.

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FOR MORE INFORMATION about and/or how to get involved in efforts to support human and indigenous rights defenders in Guatemala, and in efforts in the USA and Canada to hold accountable North American mining companies and investors:  
[info@rightsaction.org](mailto:info@rightsaction.org), [www.rightsaction.org](http://www.rightsaction.org)