



[info@rightsaction.org](mailto:info@rightsaction.org) / [www.rightsaction.org](http://www.rightsaction.org)

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### **CHOC v. HUSBAY MINERALS**

#### **Precedent-setting Lawsuit in Canada Against Nickel Mining Giant December 2010**

- **REQUEST FOR FUNDS:** To support a lawsuit in Canada, to hold accountable a Canadian nickel company – HudBay Minerals - for the killing of Adolfo Ich, a Mayan-Qeqchi (kek-chi, phonetically) man in Guatemala.
- **FUNDS NEEDED, 2011:** \$44,400
- **TO MAKE A TAX DEDUCTIBLE DONATION OR GRANT:** See below

**CONTACT / MORE INFORMATION:** Grahame Russell, Rights Action co-director,  
[info@rightsaction.org](mailto:info@rightsaction.org)

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Dear friends:

Greetings from Rights Action. Please consider donating funds for this hugely important and (hopefully) precedent-setting lawsuit that Rights Action is supporting and is involved with.

### **RIGHTS ACTION**

Originally founded in 1983, Rights Action is a not-for-profit organization with tax charitable status in the US and Canada. The Canadian Rights Action Foundation was founded in 1999, is independent from and works in conjunction with Rights Action (USA). Since 1995, Rights Action has been funding and working to eliminate poverty and impunity and the underlying causes of poverty and impunity in Guatemala and Honduras, as well as in Chiapas [Mexico], Salvador and Haiti. We directly fund and work with community-based development, environmental, disaster relief and human rights organizations. (In 2010, to date, we have sent over \$650,000 to community-based development, environmental, disaster relief and human rights organizations) And, we educate about and are involved in activism aimed at critically understanding and changing unjust north-south, global economic, military and political relationships.

### **BACKGROUND**

On December 1, 2010, I participated in a press conference in Toronto, along with Murray Klippenstein, lead counsel for Klippensteins Barristers & Solicitors. There was a simultaneous press conference in Guatemala. Here, I summarize from the Klippensteins press release:

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### **LAWSUIT IN CANADA AGAINST MINING COMPANY RELATING TO KILLING OF MAYAN LEADER**

For immediate release: December 1, 2010  
Toronto, Canada and Guatemala City, Guatemala.

Angelica Choc (photo) and her lawyers announced today a lawsuit against Canadian mining company HudBay Minerals Inc. relating to the killing of her husband, Adolfo Ich Chamán.

On September 27, 2009, Adolfo Ich, a respected Mayan Q'eqchi' (Kek-chi, phonetically) community leader and an outspoken critic of environmental and health harms and other human rights violations caused by mining activities in his community, was hacked and shot to death by security forces employed at HudBay Minerals' "Fenix" Mining Project in an unprovoked attack near the town of El Estor, Guatemala. (Photo below)



Adolfo's widow has brought a lawsuit in Ontario courts to seek accountability for his death. The lawsuit claims \$2 million in general damages and \$10 million in punitive damages and is brought against Canadian companies HudBay Minerals Inc. and HMI Nickel Inc., as well as their Guatemalan subsidiary, Compañía Guatemalteca de Níquel ("CGN").



Adolfo's murder was brutal. Mining security forces recognized Adolfo as a community leader, surrounded him, beat him and hacked at him with machetes before shooting him in the head at close range.

"I believe my husband was killed because he spoke out about the rights violations caused by Canadian mining in Guatemala" said Adolfo Ich's widow, Angelica Choc. "I believe he was killed because he was encouraging communities to stay united against the harmful practices of the mining company."

Angelica Choc has brought the lawsuit in Canada because of the strong connections between the mining project and Canada. "The bullet that killed Adolfo was shot in Guatemala" said Murray Klippenstein, lawyer for Angelica Choc. "But the decisions that ultimately led to Adolfo's death were made in Canada. HudBay Minerals' head office is a mere five blocks away from the Canadian court where the case will be heard."

Because Guatemala suffers from very high rates of impunity, there is little chance that Angelica Choc could get justice in Guatemala. In 2005, the United Nations Special Rapporteur on Extrajudicial Execution stated that "Guatemala is a good place to commit a murder, because you will almost certainly get away with it." In 2009, CICIG (the International Commission Against Impunity in Guatemala) reported that "the impunity rate in Guatemala amounted to some 98 per cent, with only 2 out of every 100 cases actually going to court".

The claim represents assertions that have not yet been proven in court. All defendants will have the opportunity to respond in these proceedings. For more information, see [www.chocversushudbay.com](http://www.chocversushudbay.com)

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### **BACKGROUND INFORMATION ABOUT THIS STRUGGLE FOR JUSTICE**

Please view background films that Rights Action has supported and/or worked on:

- El Estor eviction 10 minute film, by Steven Schnoor:  
<http://rightsaction.org/video/elestor/index.htm>
- CTV's W5 special "Lost Paradise":  
[http://www.ctv.ca/CTVNews/WFive/20100415/w5\\_paradise\\_lost\\_100415/](http://www.ctv.ca/CTVNews/WFive/20100415/w5_paradise_lost_100415/)

Please read:

- Rights Action's December 2 release:  
[http://rightsaction.org/articles/Guate\\_Choc\\_vs\\_HudBay\\_120310.html](http://rightsaction.org/articles/Guate_Choc_vs_HudBay_120310.html)
- Rights Action's December 6 release:  
[http://rightsaction.org/articles/ChocVHudBay\\_media\\_coverage\\_120610.html](http://rightsaction.org/articles/ChocVHudBay_media_coverage_120610.html)
- "Formal Complaint", submitted by the University of Northern British Columbia and Rights Action to the Canadian government: [http://rightsaction.org/articles/Complaint\\_HR\\_&Guate\\_Mining.html](http://rightsaction.org/articles/Complaint_HR_&Guate_Mining.html)

### **RIGHTS ACTION & MINING STRUGGLES**

Since 2004, Rights Action has been funding and supporting a number of community development, human rights and environmental struggles related to the harmful operations of international (mainly Canadian) mining companies in Guatemala and Honduras, as well as, to a lesser extent, in El Salvador and Chiapas. These are struggles trying to stop, remedy and repair environmental and health harms and other human rights violations caused directly and indirectly by:

- HudBay Minerals' "Fenix" mine in Guatemala
- Goldcorp Inc's "Marlin" gold mine in Guatemala
- Goldcorp Inc's "San Martin" mine in Honduras
- Pacific Rim's planned gold mine in El Salvador; and
- Blackfire Exploration's barite mine in Chiapas

Most of our work is concentrated in the mining-harmed communities of Guatemala and Honduras.

### **IMPUNITY, NORTH & SOUTH**

Each of these mining related struggles is characterized by impunity. No legal justice has been done in Guatemala or Honduras for any of the harms and violations. This is not due to a lack of legislation in Guatemala or Honduras; it is due to the historically entrenched and well documented impunity that characterizes Guatemala and Honduras.

No legal justice has been done in Canada, home to Goldcorp and HudBay (as well as Pacific Rim and Blackfire). This is due, significantly, to a lack of applicable criminal and civil legislation, and to a lack of political will. In large part, Canadian companies operate mines in countries like Guatemala and Honduras with immunity from criminal or civil prosecution and accountability in Canada.

### **CHALLENGING IMPUNITY**

Klippensteins is one of a few Canadian law firms trying to break the wall of immunity from prosecution in Canada, seeking ways to file suits in Canada against mining companies for harms and violations that their operations cause in other countries. At this time, they are also involved in a (hopefully) precedent-setting case concerning harms and violations linked to a Canadian mining company in Ecuador.

### **CHOC v. HUBBAY MINERALS**

This case is important for the family of Adolfo Ich. Because of Guatemala's historic impunity, there is virtually no chance the family will achieve justice or remedy in Guatemalan courts. Angelica Choc's family deserves justice and remedy for their terrible loss.

This case is important for other Mayan-Qeqchi communities in the El Estor region that have historically, and on-going today, suffered human rights violations (including gang rapes, killings and forced evictions) at the behest of, or in the interests of Canadian nickel companies, including INCO, Skye Resources and now HudBay Minerals.

The case is also important with respect to all international mining companies operating in Guatemala, Honduras and elsewhere. Over the past 10 years, there has been growing awareness in Canada and the USA about the serious harms and violations caused by North American companies operating mines in many countries. And there is growing awareness about the lack of legal remedy available in Canada for harms and violations caused by Canadian companies.

There are important debates in Canada, right now, about Bills C-300 and C-354 that would provide varying degrees of long overdue administrative and/or civil law remedies. Bill C-300 was recently defeated in Parliament, and Bill C-354 is working its way, at a snail's pace, through the parliamentary bill reading process.

Thus, today in Canada, there are neither criminal nor civil laws that can be used. But, there are civil remedies that Common Law offers. This is the route that Klippenstein's is using in this case.

### **FUNDS NEEDED**

We ask for financial support to ensure that this case advances in the Canadian courts and that some measure of justice is done for the brutal and unprovoked killing of Adolfo Ich. As this case may take years, both short and long term funding are needed for the Klippensteins law firm, for Rights Action and for the family of Adolfo Ich and a local community-based human rights group.

Rights Action requests funds for the family and community and for our work. In 2011, the funding needs are:

#### FAMILY & AFFECTED MAYAN QEQCHI COMMUNITIES: \$16,400

Communication (phones, internet): \$1,800

2 laptop computers: \$1,400

Digital and video cameras: \$600

Transportation, in the region, and to and from capital city, for legal case related meetings: \$1,200

Local meetings, to keep local Mayan Qeqchi communities informed: \$2,400

On-going investigations into the killing of Adolfo Ich and other human rights violations: \$2,400  
Local publications: \$1,800  
Stipend for 2 local community leaders to carry on with this case: \$4,800

RIGHTS ACTION: \$28,000

Human rights accompaniment in mining affected region: \$6,000  
Travel & expenses, for accompaniers: \$2,400  
Planning and bringing delegations of North Americans to the region: \$3,000  
Staff trips to the region: \$3,000  
Publications in North America: \$3,600  
Hosting member of family of Angelica Choc on 2 trips to Canada: \$4,000  
Stipend for Rights Action time: \$6,000

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### KLIPPENSTEINS

Donations to Klippensteins legal case can be made online at: [www.chocversushudbay.com](http://www.chocversushudbay.com); or, by sending a cheque, made out to "Klippensteins in Trust for Angelica Choc", to Klippensteins Barristers & Solicitors, Suite 300, 160 John Street, Toronto ON, M5V 2E5.

For more information: Murray Klippenstein & Cory Wanless, lawyers for Angelica Choc, 416-598-0288, [murray.klippenstein@klippensteins.ca](mailto:murray.klippenstein@klippensteins.ca), [cory.wanless@klippensteins.ca](mailto:cory.wanless@klippensteins.ca) [www.chocversushudbay.com](http://www.chocversushudbay.com)

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Thank-you for considering this "Choc v. HudBay Minerals" funding request. I am happy to provide more background information and respond to questions.

Please share this appeal with other interested people and organizations.

Grahame Russell, co-director  
[info@rightsaction.org](mailto:info@rightsaction.org)  
1-860-352-2448  
[www.rightsaction.org](http://www.rightsaction.org)

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### **TAX-DEDUCTIBLE DONATIONS**

Make check payable to "Rights Action" and mail to:

- CANADA: 552 - 351 Queen St. E, Toronto ON, M5A-1T8
- UNITED STATES: Box 50887, Washington DC, 20091-0887

**CREDIT-CARD DONATIONS:** Go to [www.rightsaction.org](http://www.rightsaction.org), or directly to: <http://rightsaction.org/contributions.htm>

**DONATION OF STOCK?:** Contact Grahame Russell, [info@rightsaction.org](mailto:info@rightsaction.org)

