

Rights Action
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Hudbay Minerals/CGN In Spotlight Again For Impunity and Repression

Even as dozens of armed security guards recently attacked the home community of plaintiffs in the Hudbay Minerals/CGN lawsuits in Canada, the criminal murder case against the ex-head of security for Hudbay Minerals/CGN is tainted by racism, impunity, partiality and re-victimization



(Angelica Choc, widow of Adolfo Ich slain by Hudbay Minerals/CGN security guards.)

Criminal Murder Case Against The Ex-Head Of Security For Hudbay Minerals/CGN Is Tainted By Racism, Impunity, Partiality And Re-Victimization

Mayan Q'eqchi' communities, victims of violence at the hands of the CGN (Compañía Guatemalteca de Níquel – owned by Hudbay Minerals, 2004-2011) wish to make the follow statement to national and international opinion, Mayan communities, social organizations and human rights institutions:

On May 28 and 29, 2014, there was a hearing in the First Criminal Court of First Instance for Criminal Justice, Drug Trafficking and Environmental Crimes, in the Department of Izabal, regarding the criminal case (number 796-2009) against Mynor Ronaldo Padilla González, ex-Head of Security of Hudbay Minerals/CGN for murder and other crimes committed on September 27, 2009.

Padilla faces criminal charges for grievous bodily harm to Haroldo Cucul Cucul and German Chub Choc; minor injuries to Ricardo Acte Coc, Alfredo Tzi Ich, Luciano Choc, Oscar Anibal Cac Caal and Samuel Coc Chub; and for the murder of Adolfo Ich Chaman. All these victims are from Mayan Q'eqchi' communities in El Estor, Izabal.

One of the objectives of this hearing was to review a petition for dismissal submitted by the Public Ministry, eliminating criminal responsibility for the charges of causing minor injuries to the five campesinos identified above. The petition puts forward the claim that the INACIF did not evaluate the condition of the victims until late 2010, and surmises that the wounds the campesinos suffered did not require more than 10 days of hospitalization and that no further medical treatment was required.

We should point out that the victims are still unable today to carry out their daily activities because of the bullets and shotgun pellets that still remain in their bodies!

The Public Ministry also presented a petition to initiate criminal proceedings against Mynor Ronaldo Padilla González for grievous bodily harm with a fire arm against Haroldo Cucul Cucul. But the victim of the attack made a surprise appearance with a lawyer to renounce and completely withdraw the criminal charges against the accused, arguing that Padilla was not the one who shot him.

In his first appearance before the MP, Mr. Cucul Cucul had stated firmly that Mynor Padilla was indeed the one who shot him.

In fact, there were procedural law violations in this hearing. Since all the victims of these crimes are from the Maya Q'eqchi community and do not speak Spanish, the Public Prosecutor should have made available a translator. But the Prosecutor said that a translator was not required for these cases. This is a clear violation of Article 12 of ILO 169 and of Articles 16 and 142 of the Code of Criminal Procedure and it is also a violation of the Constitution of the Republic and of international treaties and agreements that guarantee the right of all persons who do not speak Spanish to have access to a translator and require that the justice system ensure a translator is provided.

At the beginning of the hearing, Judge Edgar Anibal Arteaga López recognized those present in the courtroom. He recognized the presence of the accused, Mynor Padilla, and his lawyers. Initially, he did not recognize the presence of Haroldo Cucul Cucul and his lawyer, but when he realized that he was going to renounce and withdraw criminal proceedings against the accused, he did not dismiss them from the hearing.

However, he refused to recognize the presence of Angélica Choc (wife of the murder victim, Adolfo Ich, and private complainant in the case), the five victims of the injuries (also private complainants in the case) and the lawyers that accompanied them. He said they had no business being there.

The judge did not allow them to speak when they asked to and said they would not be allowed to speak up until he deemed it suitable – which he never did, during the whole hearing.

The victims of the murder and of the minor injuries waited outside the courtroom and then later were thrown out of the court house. This is in flagrant violation of Article 117 of the Code of Criminal Procedure, which states that:

A victim aggrieved by a crime, even if he has not been recognized as a private complainant, has the right to be informed of his rights that will help him through the criminal proceedings. The Public Ministry should listen to his opinion in these proceedings, especially if final or interim decisions come down that involve closure or extinction of criminal prosecution; the victim should be invited to appear at hearings where his opinion can be expressed. As well, mechanisms should be put in place to diminish risk of secondary victimization during criminal proceedings. The Public Ministry is obliged to guarantee these rights.

Case 796-2009 involves all these criminal offences because it would appear that they were all interconnected. One single person (Mynor Padilla) is accused of several crimes that happened at the same time, in the same place and under the same circumstances.

For the victims, this is one more proof of the impunity, discrimination, partiality and re-victimization that prevail in the justice system of Guatemala.

This was all re-confirmed in the hearing the next day. In the absence of the accused (Mynor Padilla) and his lawyer, the judge ruled to accept Haroldo Cucul Cucul's withdrawal of charges of grievous bodily harm, as well as the petition to withdraw the five campesiono's charges of minor injuries in favour of Mynor Ronaldo Padilla González.

These decisions are a grave violation of the procedural and human rights of the victims.

Haroldo Cucul Cucul's withdrawal of charges is evidence of the threats and coercion that plague the injured and the witnesses in this case. These attempts to silence the witnesses and hide the truth make it clear that impunity prevails in our justice system.

We denounce that the trial against Mynor Padilla, ex-Head of Security for Hudbay Minerals/ CGN, will not take place with independence, transparency and impartiality. The victims of this brutal aggression are far from receiving the justice they deserve.

Given all the above facts, we demand that the following institutions take note of these violations, speak out and, as observers and guarantors of human rights, witness how these criminal proceedings are played out.

Public debate of this issue will begin on September 28.

We request that all institutions and social organizations that protect human rights and ensure that the law is followed and that justice is achieved remain vigilant because we cannot allow such violations of the right of people to say the truth and seek justice. We will not tolerate any act of those working in the justice system that violates the right of victims to demand justice.

NO IMPUNITY IN FAVOUR OF Hudbay Minerals / CGN
El Estor, Izabal, June 2, 2014

THE ICH CHOC FAMILY,
VICTIMS AND AFFECTED Q'EQCHI COMMUNITIES
RIGHTS ACTION
ENCUENTRO CAMPESINO
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CENTRO DE ACCION LEGAL, AMBIENTAL Y SOCIAL –CALAS-
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GUATEMALA HUMAN RIGHTS COMMISSION IN WASHINGTON, USA.

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To support the on-going work of the Mayan Qeqchi people for community development and environmental defense, and for justice and reparations, make check payable to "Rights Action" and mail to:

- United States: Box 50887, Washington DC, 20091-0887
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- *“Getting funds directly to community groups, that are carrying out environmental and human rights defense work, emergency response work, and their own community development projects, is a fundamental and priority part of work and activism.”*

More Information

- About the community defense and justice struggles of Mayan Qeqchi people in Guatemala: info@rightsaction.org, www.rightsaction.org, www.facebook.com/rightsaction.org
- About the lawsuits against Hudbay/CGN in Canada: www.chocversushudbay.com

Defensora

40 minute film by Rachel Schmidt (2013)

Trailer/ Screenings/ Info: www.defensorathefilm.com

The award winning film “Defensora” documents the Mayan Qeqchi people's struggle, in eastern Guatemala, to reclaim their ancestral lands, to promote community development and environmental well-being, and to seek justice and remedy in both Canadian courts, for the murder, shootings and rapes committed against them by Canadian mining companies (particularly Hudbay Minerals) in Guatemala.
