

Breaking News (Guatemala, April 6, 2017)

(view in browser: <http://us9.campaign-archive1.com/?u=ea011209a243050dfb66dff59&id=80bfaaf40>)

Mynor Padilla (Hudbay Minerals ex head of security) absolved of mining-linked murder and assault charges. Impunity for mining repression is maintained in Guatemala.

Mynor Padilla (Hudbay Minerals former head of security) has been absolved of murder and assault charges, and has been immediately released.

There is a real risk of backlash repression against the Mayan Q'eqchi' victims who testified: Angelica Choc (widow of Adolfo Ich who was illegally detained and murdered by Mynor Padilla and his security guards); German Chub (shot and left paralyzed by Mynor Padilla); their family members. There is a real risk of backlash repression, as well, against the Lote 8 women (rape victims) participating with Angelica and German as plaintiffs in the precedent setting lawsuits in Canada.

Contact: Grahame Russell, Rights Action, grahame@rightsaction.org, 416-807-4436

- For information about civil lawsuits in Canada against Hudbay and CGN (Guatemala Nickel Company), contact: Cory Wanless, Klippensteins Barristers & Solicitors, cory.wanless@klippensteins.ca, 1-416-598-0288

Background:

April 6th, Guatemala ~ Trial of Mynor Padilla (former Hudbay Minerals head of security) to conclude: Hope for justice; Prepare for Impunity

Timeline and some key issues

By Grahame Russell, Rights Action, April 3, 2017

(<http://us9.campaign-archive2.com/?u=ea011209a243050dfb66dff59&id=3467b2f535>)

On April 6, 2017 - seven and a half years after the September 27, 2009 targeted killing of Adolfo Ich and shooting-paralyzing of German Chub; four and a half years after Mynor Padilla (Hudbay's head of security) was finally captured; two years after this courageous criminal trial began - Judge Ana Leticia Pena will make public her decision.

All respect to Angelica Choc, German Chub and their lawyers and supporters for their courage to see this trial through.

It is no small thing - in the context of Guatemala's racism and exploitation, and government and private sector repression, corruption and impunity - for impoverished, discriminated Mayan villagers to publicly tell the truth about mining repression and human rights violations they suffered, and demand justice in Guatemala's notoriously weak and corrupted legal system.

Hope for justice / Prepare for impunity

While a finding of guilt is what should happen, the victim-plaintiffs are under no illusion as to what the Judge might decide. Firstly, Padilla has the support of the Guatemalan economic elites and their global mining partners. Secondly, he was an officer in the Guatemalan military. Guatemala's economic and military elites are not used to facing justice; the country's legal system remains characterized by corruption and impunity for the wealthy, powerful sectors (including mining companies).

Timeline / Some key issues

CGN (Guatemalan Nickel Company) was owned by Skye Resources (2004-2008) and Hudbay Minerals (2008-2011). Hudbay bought Skye in 2008, including all of its assets (CGN) and liabilities, and sold CGN in 2011 to the Solway Group, a Cyprus-based company.

September 27, 2009 – Deadly mining repression

On this day, Hudbay/CGN security guards, under the command of Mynor Padilla, illegally entered the Mayan Q'eqchi' [Kek-Chi] community of La Union, municipality of El Estor, department of Izabal, in eastern Guatemala. They shot live bullets at, and over the heads of gathered community members. At one point, Padilla looked to his side, saw a community member – German Chub – standing there, and shot him with his handgun. The bullet left German paralyzed from the chest down; he lost also the use of one lung.

Soon after, Padilla and his guards singled out and illegally detained Adolfo Ich, a father of five, respected community leader and teacher. They machete hacked his body and shot him. Padilla and the guards dragged Adolfo through a fence onto Hudbay/CGN property, where he was later found dead.

Padilla – Fugitive from justice, on Hudbay/CGN payroll

Though there was a capture order issued against Padilla after September 27, 2009, he continued his work, openly, as head of security for Hudbay/CGN for at least a year. It is not known how long he remained on the Hudbay/CGN pay-roll, or if they have an on-going financial commitment to him today.

2010-2011 – Hudbay Minerals lawsuits in Canada

In Canada, Angelica Choc (widow of Adolf Ich), German Chub and 11 women from the village of Lote 8 filed lawsuits in Canadian courts (represented by Klippensteins Barristers and Solicitors) against Hudbay and CGN for the death of Adolfo, shooting of German and gang-rape of the women in 2007 by CGN security guards (then owned by Skye) during an illegal, forced eviction of their community.

September 2012 – Padilla captured

Under increased national and international activist attention, Padilla is finally captured and held with no bail as he had been a fugitive from justice for three years.

Separate legal proceedings / Some overlapping issues

The criminal trial in Guatemala is completely separate from the civil lawsuits in Canada. Some of the issues clearly overlap. There are no legal implications for Hudbay or CGN in the criminal trial in Guatemala. It is a trial against one man, for the killing and shooting.

On-going threats and intimidations

Starting in 2013, Rights Action and, separately, Klippensteins have found it necessary to write letters, a number of times, to Hudbay and CGN, and other government offices, denouncing threats and attacks that Angelica, German, the 11 women and their family members have received, regularly, from people

working for, or linked to the CGN company, and/or linked to the family of Padilla. The most threatening attack was September 17, 2016 and the most recent threats on March 7-8, 2017 (see below).

“Concocted stories”

These threats and attacks are obviously illegal. In the context of Guatemala’s historic and on-going repression and impunity, they are always frightening.

Moreover, when intimidating Angelica, German and/or the 11 women, the people doing so – whether CGN employees or people linked to Padilla’s family – repeat arguments also made by Padilla’s lawyers in Guatemala, and by Hudbay/CGN lawyers in Canada – that German, the 11 women and Angelica have “concocted” their stories of mining repression so as to win financially rewarding settlements in the lawsuits in Canada.

April 2015 – Trial begins

Three and a half years after Padilla was finally detained, the criminal trial began in a Puerto Barrios courtroom presided over by Judge Ana Leticia Pena Ayala.

Padilla’s revolving door of lawyers

It is widely suspected that Hudbay – from Toronto – is paying for Padilla’s team of well-connected criminal defense lawyers. When asked in 2016 by the Toronto Star to confirm this, Hudbay provided a murky answer: “We are not going to say anything that might be distorted on the internet or otherwise used to interfere with Mr. Padilla’s presumption of innocence or right to a fair trial.” (Scott Brubacher, Hudbay corporate communications, <https://www.thestar.com/news/world/2016/06/20/how-a-guatemalan-murder-trial-could-forever-change-canadian-overseas-mining.html>)

It is not clear as to how much of Padilla’s legal defense strategy and tactics Hudbay and its lawyers might be directing from Toronto.

June 3, 2015 – Padilla lawyer killed by hit squad

On this day, Francisco Jose Palomo Tejada was shot 12 times, midday in downtown Guatemala City. Besides representing Padilla, Palomo was a lawyer for general Rios Montt who was found guilty of genocide against the Mayan Ixil people during the worst years of U.S.-backed repression and genocide, 1978-1983. Palomo’s assassination was allegedly linked to his work with a Guatemalan drug trafficker (Marllory Chacón, known as the “Queen of the south”, now in jail in the U.S.) who laundered money for the Mexican Sinaloa drug cartel.

September 1, 2015 – Hudbay pays for (misleading) testimony

Hudbay hired and paid John Terry - a senior partner at the “Torys” law firm (<http://www.torys.com/people/terry-john-a>) - for “many hours of work” (as Terry said in the Puerto Barrios courtroom, Sept. 1, 2015) to appear in the Padilla trial and testify about the civil lawsuits in Canada. Terry’s testimony turned out to be highly misleading and selective.

January 20, 2016 – Motion to remove Judge for racial discrimination and partiality

Angélica filed a motion that Judge Ana Leticia Peña be removed on grounds of racial discrimination against the Q’eqchi’ victims/ witnesses/ accusers. The Padilla trial was suspended while this motion was resolved.

January 27, 2016 – Motion dismissed on a procedural technicality

Citing a procedural technicality in the filing of the motion to remove, and not on the merits of the charges, an appeals court ruled against Angelica's motion.

February 8, 2016 – Trial closed to public

Judge Ana Leticia Pena ruled to continue the trial behind closed doors due to "security threats" against the Judge, herself, and the prosecution. Angelica and German, who have indeed received many threats, did not request this 'closed door' measure and do not agree with the Judge's "justification". The trial has continued behind closed doors since that time.

February 12, 2016 – Padilla lawyer charged with crimes linked to organized crime network

A second defense lawyer, Frank Manuel Trujillo Aldana, was charged with illicit association, bribery, influence-trafficking, obstruction of justice and collusion, all linked to the "la linea" organized crime network headed by former President Otto Perez Molina and Vice-President Roxana Baldetti that stole \$120,000,000 in public funds. Perez Molina and Baldetti were forced to resign and are now in jail.

September 17, 2016 – Angelica's home shot up at midnight

Just after midnight, unidentified men opened fire on Angelica's small, cinder block home in El Estor as she slept inside with two young children. This was the most terrifying act of intimidation to date that the victims/ witnesses/ accusers have received. Bullet marks were found the next morning on the walls of her house, and 12-gauge shotgun and 22-calibre bullet casings were found nearby.

No one was hurt physically, but again, as part of over three years of threats and intimidations, a clear message was sent. Though investigated by the police, there has been no follow-up.

Murray Klippenstein, one of Angelica's Canadian lawyers, commented:

"The fact that Angelica's house was shot at just before the Guatemalan criminal court is to decide whether the former head of mine security is criminally responsible for the brutal killing of her husband is no coincidence. It is meant as a signal to all involved, including the judge who must decide whether Mr. Padilla is guilty. I am very concerned that Hudbay's continued irresponsible defence of both the civil lawsuits in Canada and the criminal prosecution in Guatemala have done nothing to dissuade this kind of attack in Guatemala against our clients, and in fact their failure to own up to what happened in the past and take steps to punish those responsible make it more likely this will happen again, but maybe much worse."

December 2016 – Possible Hudbay/CGN collaboration with military "Kaibil" special forces

During the Padilla trial, a new criminal investigation was initiated into whether the military's "Kaibil" special forces worked with Hudbay/CGN guards to mount a military intelligence and population control operation, before, during and after the day (September 27, 2009) of repression that resulted in the assassination of Adolfo Ich, shooting-paralyzing of German Chub, and wounding of other community members.

March 7-8, 2017 – Threats and intimidations to the end

The final days of hearings were very tense. Angélica and German's closing statements to the court were an ordeal in and of themselves - having to relive traumatic experiences. They then had to leave Puerto Barrios under police escort after reporting that suspicious characters had been following them. Angélica and German were accompanied in Puerto Barrios by friends, lawyers and human rights observers. At their hotel, the group spotted a man observing them. This man spent the night at the hotel, in a room adjacent to rooms occupied by members of Angélica and German's party, and continued to observe

them the next morning. Two other men were spotted observing the group in front of the courthouse, while a white Toyota Hilux - model used by CGN security - drove around the block where Angelica and German's driver was waiting.

The police were provided with photos of the men and of the car driven by the man in the hotel, with its license plate, etc. The police said they would follow-up. As before, there has been no follow-up to any attacks or acts of intimidation and threats.

April 6 – Decision day

Rights Action calls for journalists, human rights observers and activists to be present at the courthouse in Puerto Barrios as a show of respect and support for Angelica, German, their families and supporters, and to report on what happens.

Possible repression

Whatever decision the Judge lays down on April 6, there exists a real possibility of repression against German, Angelica and their families and supporters, after the decision is made public, for their courage in seeing this trial through. As we have done since 2009, Rights Action holds Hudbay and CGN partially or fully responsible for any repression or crimes that German, Angelica and their families and supporters might suffer.

Justice struggle on-going struggle

Depending on the April 6 outcome, there could well be appeals; this courageous trial may well continue. Moreover, the precedent setting civil lawsuits against Hudbay/ CGN continue slowly but surely in Canada.

[Grahame Russell, a non-practising Canadian lawyer and director of Rights Action, www.rightsaction.org]

Tax-Deductible Donations (Canada & U.S.)

To support the work and struggle of the Mayan Q'eqchi' people in defense of their communities, human rights and environment, and for justice in Guatemala and Canada, make check payable to "Rights Action" and mail to:

- U.S.: Box 50887, Washington DC, 20091-0887
- Canada: (Box 552) 351 Queen St. E, Toronto ON, M5A-1T8

Credit-Card Donations: <http://rightsaction.org/donate/>

Donations of stock? Write to: info@rightsaction.org

More Info: info@rightsaction.org

Subscribe to e-Newsletter: www.rightsaction.org

Facebook: www.facebook.com/RightsAction.org

Twitter: <https://twitter.com/RightsAction>, @RightsAction
