

Is justice possible in Canada or Guatemala for Hudbay Minerals mining repression?

By Grahame Russell, June 12, 2019

[View in browser: <https://mailchi.mp/rightsaction/is-justice-possible-in-canada-or-guatemala-for-hudbay-minerals-mining-repression>]

Every now and then there is a human rights, territory and environmental defense struggle that breaks through the thick walls of global corporate wrong-doing and criminality, denial, corruption and impunity. The Hudbay Minerals lawsuits in Canada, and related Mynor Padilla trial in Guatemala, are one such struggle.

The issues at hand - mining-linked repression; collusion with corrupt and repressive business partners, governments, security guards, police and military; widespread impunity - are similar to other cases of corporate wrong-doing and criminality around the world. For a number of reasons, however, these legal cases in Canada and Guatemala are painstakingly overcoming legal, jurisdictional and political obstacles (including on-going repression) and proceeding.

As these cases advance, they are revealing even more information about the complex relations of corporate, government, judicial and military collusion and complicity, corruption and impunity.

These cases are proceeding in the context of growing activism in Canada and around the world related to the violence and harms, impunity and corruption with which global corporations and investors often operate, and related to the fact that there is almost no way to hold them legally or politically accountable in their home countries, many of which tout themselves as democracies that uphold the values of human rights, good governance, transparency, the rule of law and right to justice.

More specifically, these cases are proceeding due to the courage and strength of the 13 Mayan Q'eqchi' plaintiffs, victims and survivors of the mining repression who are now protagonists in these struggles for justice. These cases are proceeding due to the legal acuity and commitment of lawyers in Canada and Guatemala; and to a trusting work alliance that Rights Action has with the victims-plaintiffs since 2004. Since the civil lawsuits were filed in Canada in 2010, and the criminal trial began in Guatemala in 2015, Rights Action has maintained close working and funding relations with the victims-plaintiffs and their Canadian and Guatemalan lawyers.

While an eventual trial in Canada might be a few years off, and while the re-trial in Guatemala may go through 2019 and into 2020, these lawsuits have already changed the legal and political reality of corporate impunity and immunity from legal accountability.

Victims-Survivors / Protagonists-Plaintiffs

- Caal v. Hudbay: Margarita Caal Caal, Rosa Elvira and 9 other Mayan Q'eqchi' women are plaintiffs from the remote community of Lote Ocho, who were gang-raped in January 2007 by company security guards, police and soldiers during an illegal, violent eviction of their entire community;
- Choc v. Hudbay: Angelica Choc is the plaintiff, widow of community leader Adolfo Ich, assassinated by company security guards on September 27, 2009;

- Chub v. Hudbay: German Chub is the plaintiff, shot and left paralyzed by the company security guards the same day Adolfo Ich was killed.



In Toronto, November 2017, lawyer Murray Klippenstein speaks with some of the Lote Ocho women, and Angelica Choc, during a break in examinations for discovery (depositions). Murray is translated to Spanish by Grahame Russell, and Angelica translates to Q'eqchi'.



German Chub and Angelica Choc, with lawyer Cory Wanless and Grahame Russell (Rights Action), in Toronto, July 2018, for examinations for discovery (depositions) by Hudbay Minerals' lawyers.



In the La Union community, Angelica Choc and nine of the eleven plaintiffs from Lote Ocho, in 2017.

The plaintiffs are suing Hudbay and CGN (Guatemalan subsidiary company then owned by Hudbay) for negligence resulting in the mining-linked repression. When the women were gang-raped, CGN was owned by Skye Resources. In 2008, Hudbay bought out Skye and all its assets and liabilities.

Two of the victims (Angelica Choc, German Chub) are also pursuing justice in a criminal trial in Guatemala against Mynor Padilla, former head of security for Skye/Hudbay/CGN at the time of the mining repression they suffered.

Canadian mining in the Mayan Q'eqchi' region

Going back to the 1960s, the Q'eqchi' people of the municipality of El Estor have suffered repeated waves of repression linked to Canadian mining companies, starting with INCO (International Mining Company) in the 1960s, 70s and early 80s; continuing in 2004 with Skye and Hudbay in 2008 (when Hudbay bought Skye). In 2011, Hudbay sold its mining interests to the Switzerland-based Solway Investment Group.

- "Canadian Companies Mining With The Genocidal Generals In Guatemala", by Grahame Russell, [7 April 2019, http://rightsaction.org/canadian-companies-mining-with-the-genocidal-generals-in-guatemala/](http://rightsaction.org/canadian-companies-mining-with-the-genocidal-generals-in-guatemala/)

No justice was ever done in Guatemala or Canada for INCO's mining repression carried out together with Guatemalan military regimes, including killings, shootings and violent evictions. Some of this INCO-linked repression was documented in the United Nations' 12 volume "Memory of Silence" truth commission report published February 1999.

Through INCO, then Skye/Hudbay, and continuing today with the Solway Investment Group/CGN, the patterns of mining repression include: violent, illegal evictions and community destruction; shootings and maimings; killings; rapes; criminalizations of community defenders; etc. Deep seated corruption and impunity have been the norm.

Timelines and key aspects of justice struggles

Corporate clarification: INCO (and its subsidiary company EXMIBAL) built the processing plant and installations during the 1960s and 70s, and operated the mine from 1979-1981, until mining was suspended. Skye was incorporated in 2004 by former INCO company officers. INCO transferred to Skye

its existing subsidiary company EXMIBAL (whose name was changed to CGN) and its ill-gotten mining concession that had been acquired in the 1960s from the military government of the day. INCO was the principal investor in Skye Resources.

In 2008, Hudbay bought Skye. Hudbay is legally liable for the gang-rapes against the women of Lote Ocho, if a court so decides, even as Skye Resources was the owner of CGN at the time. In 2011, Hudbay sold CGN to the Solway Investment Group, but remained responsible for its liabilities, such as the legal proceedings.

The three civil lawsuits are unique in Canadian legal history. It is the first time a court (the Superior Court of Justice, Ontario) ruled that a Canadian company can be tried in Canadian courts for harms and violations in other countries. The lawsuits pit impoverished Indigenous Mayan plaintiffs, and their Toronto lawyers (Murray Klippensteins and Cory Wanless), against a wealthy and powerful mining company and its lawyers from the politically well-connected law firm of Faskens Martineau.

- “The Hudbay Minerals lawsuits: Clashing world views at the legal crossroads: the Avatar movie overlaps with a John Grisham novel”, by Grahame Russell, January 3, 2013, <http://rightsaction.org/the-hudbay-minerals-lawsuits-clashing-world-views-at-the-legal-crossroads-avatar-movie-overlaps-with-a-john-grisham-novel-by-grahame-russell-january-3-2013/>.

While the trial in Guatemala is not a legal precedent in the same way, it is more risky and courageous. Mynor Padilla, Hudbay/Skye/CGN’s former head of security, was a Lieutenant-Colonel in the Guatemalan army. He joined the U.S.-backed military regime in 1981 during some of the worst years of State-sponsored disappearances, torture and rape, assassinations, massacres and genocide. For reasons that remain unclear, Padilla changed his name while in the Army.

- “Attorney General, CICIG and Angelica Choc continue with criminal trial against ex-military linked to Hudbay Minerals”, by Luis Solano, June 6, 2017, <http://mailchi.mp/rightsaction/why-did-mynor-padilla-former-head-of-security-of-hudbay-mineralscg-n-change-his-name>.

It is no small thing for impoverished Mayan people to seek justice against an army officer who is represented by a team of well-connected Guatemalan defense lawyers who are, in all likelihood, paid by Hudbay from Canada.

Legal clarification: Neither legal proceeding has direct bearing on the other, though both deal with some of the same facts related to the killing of Adolfo Ich, the shooting-paralyzing of German Chub, and to Hudbay/CGN corporate policies and actions.

Hudbay Minerals/CGN lawsuits

Lawsuits filed - 2010

The lawsuits were initiated in Toronto in 2010. Hudbay’s then-owned subsidiary CGN is included in the lawsuits not only as the former subsidiary but also –in the Choc v. Hudbay case– as a co-defendant. The Solway Investment Group of Switzerland (owner of CGN since 2011) has a direct interest in how the civil lawsuits in Canada play out.

Landmark decision – July 2013

After three years of legal battles over Hudbay's motions to dismiss the lawsuits before trial, the Superior Court of Ontario ruled that the lawsuits can go to trial in Canada. This represented a historical leap forward in Canadian corporate accountability. It is a long overdue victory for work and struggle to begin to hold global corporations accountable for human rights violations, environmental destruction, etc., that they cause and profit from.

The Hudbay lawsuits have helped pave the way for similar lawsuits against Canadian companies that committed human rights abuses abroad:

- Nevsun Resources case, regarding forced labour and slavery at a mine in Eritrea;
- Tahoe Resources case, regarding shootings-maimings by mine security personnel, also in Guatemala;
- Loblaws/Joe Fresh case, regarding the Rana Plaza garment factory collapse in Bangladesh resulting in over 1000 deaths.

Corporate and media reactions

The New York Times says the Hudbay cases have "sent shivers through the vast Canadian mining, oil and gas industry."^[1] The Toronto Star notes that the lawsuits "have potentially explosive consequences. If Hudbay is found liable, the case could establish corporate behaviour guidelines for Canadian mining subsidiaries overseas, which have a long history of human rights and environmental complaints."^[2] CBC's news program "The National" says the cases are sending "shockwaves through the glass and steel corridors of corporate Canada."^[3]

Accountability not just for mining industry

A lawyer with the corporate law firm Gowling WLG warns the mining industry that if the Hudbay litigation is successful "then we've got major new law and it's explosive."^[4] Other elite Canadian resource company law firms note that "Hudbay serves as a warning for Canadian corporations operating in foreign countries that they could potentially face civil liability in Canada for wrongs committed in foreign countries,"^[5] and that "Choc v Hudbay may usher in potential expanded exposure to risks and liabilities for Canadian corporations doing business abroad, not only in the natural resources sector but also in various other sectors, including banking, manufacturing, retailing and telecommunications."^[6]

Disclosure - 2014-2017

Once the Ontario court ruled in 2013 that the lawsuits should go to trial in Canada, both sides were required to disclose all information relating to any aspect of the lawsuits. As part of this process, Klippenstein and Wanless were obliged to go to court again in 2015 – another 'mini-trial' within the lawsuits - to obtain a court order forcing Hudbay to disclose extensive internal and normally confidential company (Hudbay/Skye/CGN) information.

In late 2016, Hudbay began delivering relevant Hudbay/Skye/CGN information. Klippenstein and Wanless received some 19,000 documents (emails, texts, correspondence, policy statements, reports,

¹[New York Times, "Outcry Echoes Up to Canada"](#), April 3, 2016.

²[The Toronto Star, "Mayan families' quest for justice against Canadian mining company HudBay"](#), June 20, 2016.

³[CBC News, The National, "Guatemalan Villagers counter Hudbay's denials"](#), May 27, 2015.

⁴[Financial Post, "Canadian mining companies face lawsuits over foreign activities"](#), Dec. 10, 2014.

⁵[Bennet Jones, "A Warning for Canadian Corporations with Foreign Subsidiaries"](#), July 30, 2013.

⁶[Osler, "Ontario Court Gives Green Light to International Human Rights Tort Claims in Choc v. Hudbay Minerals Inc."](#), July 26, 2013.

photos, etc.) and spent months reviewing them. Some corporate “dirty laundry” was revealed (see below).

Discovery - 2017-2018

Upon completion of the disclosure process (though there may be another pending ‘mini-trial’ in this regard, as it is not clear if Hudbay disclosed all relevant corporate information), the lawsuits entered the examinations for discovery (depositions) phase wherein Wanless and Klippenstein questioned a number of Hudbay-Skye-CGN company officers, on the record, and Hudbay’s lawyers questioned the 13 plaintiffs.

Here: Links to photo-essays (<http://rightsaction.org/hudbay-minerals-lawsuits-media/>) I prepared while supporting the eleven Lote Ocho women, German Chub and Angelica Choc, during their spectacularly moving and difficult journeys to Toronto, to be questioned and grilled by Hudbay lawyers, in November 2017, and July 2018.

Amendments motion – September 2019?

The next step is a possible amendments motions (yet another ‘mini-trial’) to be heard before an Ontario court during the fall of 2019. Nine years into the lawsuits, Hudbay is challenging an important argument of the plaintiffs in the Caal v. Hudbay case, that Hudbay can and should be held accountable for the harmful actions of the Guatemalan military and police, as well as those of company security guards.

The 2007 gang rapes were carried out by company security guards, police and military, during the illegal forced eviction of Lote Ocho. Hudbay is arguing that they can be held accountable only for the actions of company guards, not police and military, even though Skye-CGN was paying for and coordinating with the police and military before, during and after the violent evictions.

Corporate “dirty laundry” revealed

As part of Klippenstein and Wanless’ arguments in this motion, they filed into the court record a batch of previously confidential Hudbay-Skye-CGN documents.

Illegitimate payments of hundreds of thousands of dollars to military and police

We now know that Skye/CGN made payments of hundreds of thousands of dollars to liaisons with the Guatemalan police and military who gave said funds to the military and police for their role in planning and carrying out the violent and arguably illegal forced evictions of various Q’eqchi’ villages in 2007, including those of January 9 and 17 in the village of Lote Ocho, and that these payments were done with no contracts, written agreements or invoices.

Terrorizing helicopter over-flights

We now know that Skye/CGN corporate officers approved the decision to carry out an increasing number of Lote Ocho over-flights in company helicopters, at ever lower levels, with the intention of psychologically intimidating the villagers, leading up to the evictions in January 2007; that Skye/CGN did this because they had learned from people in their employ that the U.S.-backed Guatemalan military regime used this same helicopter-overflight tactic to threaten, attack and terrorize Mayan villagers during the worst years of Guatemala’s massacres and genocides in the 1980s; and that Skye/CGN chose to use this tactic on the people of Lote Ocho to try and scare them into leaving their lands.

“No negotiation” related to un-resolved land claims issues

We now know that leading up to and during the January 2007 evictions, Skye/CGN had a “no negotiation” position with respect to the Q’eqchi’ inhabitants of the lands in question; that Skye/CGN took steps to avoid or block any legal proceedings that would support the Q’eqchi’ claims to be the rightful owners of the lands in question; and that Skye/CGN took steps to avoid or block any efforts by government agencies, the Catholic Church and/or non-government organizations to negotiate a peaceful solution to the underlying lands disputes between the Q’eqchi’ inhabitants of the lands and Skye/CGN.

- “Hudbay Minerals corporate documents reveal extensive knowledge about and enabling of repression and corruption in Guatemala”, by Grahame Russell, July 19, 2018, <https://mailchi.mp/rightsaction/hudbay-minerals-corporate-documents-reveal>

Disclosures motion?

After completion of the possible amendments motion, Wanless and Klippenstein may file another motion to argue that Hudbay has not properly disclosed – even now, 9 years into the lawsuits - all pertinent corporate information as required by law. Whether this motion is filed, or not, as the lawsuits progress it is highly likely that more previously internal Hudbay/Skye/CGN documents will be filed in court for use in the lawsuits. What more corporate “dirty laundry” might then be revealed?

Trial date?

After the disclosure and discovery phases are completed, hopefully in 2019-2020, the plaintiffs will prepare for the actual trial which will take place in front of a jury, and will be lengthy. Any trial could well be two or more years away.

Mynor Padilla criminal trial

Reminder: The criminal trials in Guatemala address the killing of Adolfo Ich and shooting of German Chub, not the gang-rapes suffered by the women of Lote Ocho.

Legal clarification: The criminal trial is being prosecuted by Guatemala’s Ministerio Public (MP) (same as Attorney General in the U.S., Crown prosecutors in Canada), together with lawyers from CICIG (the UN-backed International Commission Against Impunity in Guatemala) and a lawyer representing Angelica Choc who, as an affected party, is a co-prosecutor.

Acquittal!

On April 6, 2017, Mynor Padilla was acquitted of the murder and aggravated assault charges. Judge Ana Leticia Pena Ayala ordered Padilla’s immediate release from detention. Moreover, she apologized on behalf of the justice system for his detention.

To top it off, she ordered that criminal investigations for obstruction of justice, perjury and coercion of witnesses be initiated against: Angelica Choc; Angelica’s children and sister (witnesses to Adolfo’s killing); other victims of Hudbay/CGN security guard violence; expert witnesses called to give testimony; and the prosecuting lawyers from the MP’s office.

You read this correctly. While exonerating Padilla, Judge Ana Pena aimed to turn the victims of Hudbay/CGN’s mining repression into criminals.

This astoundingly bad decision was overturned on appeal, and there is now a criminal investigation into the judge for rendering this decision (see below.)

Deadly mining repression – September 27, 2009

It was on this day that Hudbay/CGN security guards, under the command of Padilla, illegally entered the community of La Union, by the town of El Estor. They shot tear-gas and bullets over the heads of community members. At one point, Padilla looked to his side, saw German Chub standing there, and shot him with his handgun. German had been watching the regular Sunday game of soccer at the La Union field. Soon after shooting German, Padilla and his guards grabbed and then hacked with machetes and shot Adolfo Ich in the head.

Fugitive from justice, on Hudbay/CGN payroll!

Though a capture order was issued against Padilla after September 27, 2009, he continued to work openly as head of security for Hudbay/CGN for at least a year, according to villagers. It is not known how long Padilla remained on the Hudbay/CGN payroll after the shooting of Adolfo and German, or if Padilla continues to receive funds today from Hudbay/CGN.

Padilla captured – September 2012

Padilla was finally captured and held without bail as he had been a fugitive from justice. The trial would not begin until 2015.

Regular intimidations, threats and attacks

Since 2013, Rights Action and, separately, the Canadian lawyers, have written letters to Hudbay, CGN and government officials in Canada and Guatemala, denouncing threats and attacks that Angelica, German, the 11 women and their family members have received from people working for, or linked to the mining company, and/or the family of Padilla. In the context of Guatemala's historic and on-going repression and impunity, these are always threatening messages.

“Concocted stories”

When threatening and intimidating Angelica, German and the 11 women, the people doing so make statements similar to those made by Padilla's lawyers in Guatemala, and by Hudbay in Canada - that German, the 11 women and Angelica have “concocted” their stories of mining repression so as to win financial settlements in the lawsuits in Canada.

Trial begins - April 2015

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

Who pays Padilla lawyers? Who sets their legal strategy?

It is suspected that Hudbay is paying for Padilla's team of well-connected defense lawyers, though Hudbay refuses to confirm this. When asked by the Toronto Star, Hudbay responded: “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.” (<https://www.thestar.com/news/world/2016/06/20/how-a-guatemalan-murder-trial-could-forever-change-canadian-overseas-mining.html>)

Pending questions: Is Hudbay paying Padilla's legal defense? Is Hudbay directing Padilla's legal defense strategy from Canada? Why might Hudbay be intervening in the criminal trial in Guatemala, when the result has no legal implications for Hudbay?

1st Padilla lawyer killed – June 3, 2015

On this day, one of Padilla's lawyers - Francisco Jose Palomo Tejada - was shot 12 times by a hit squad, midday in Guatemala City. Besides representing Padilla, Palomo was a lawyer for general Rios Montt, found guilty of genocide against the Mayan Ixil people during the worst years of U.S.-backed repression, 1978-1983. Palomo's assassination was linked in the press to his alleged work with a Guatemalan drug trafficker (Marllory Chacón, "Queen of the south", now in jail in the U.S. on drug charges) who laundered money for the Mexican Sinaloa drug cartel.

While this is unrelated to the Padilla trial, it is an indication of the type of well-connected, presumably high-priced lawyer defending Mynor Padilla, that someone (Hudbay?) is paying for.

Hudbay intervenes in Padilla trial - September 1, 2015

On this day, John Terry – a senior partner at the Torys law firm (<http://www.torys.com/people/terry-john-a>) – arrived at the Puerto Barrios court house and gave "expert testimony" on behalf of Hudbay and Padilla about the Hudbay Minerals lawsuits in Canada. Terry was paid by Hudbay for "many hours of work" to appear in the trial. Terry's testimony turned out to be, according to people involved in the legal proceedings in Guatemala and Canada, misleading and selective.

Motion to remove Judge - January 20, 2016

Angelica's lawyers filed a motion that Judge Ana Peña be removed on grounds of racial discrimination and partiality against the Q'eqchi' victims/ witnesses/ accusers.

Motion dismissed - January 27, 2016

Citing a procedural technicality, not the merits of the motion, an appeals court ruled against the motion.

Trial closed to public - February 8, 2016

Judge Ana Pena ruled to continue the trial behind closed doors due to "security threats" against herself and the prosecution! You read this correctly. Angelica and German, who actually received threats and attacks, did not request this measure and did not agree with the Judge's "justification". The trial continued behind closed doors until the end – no members of the public or media were allowed in.

2nd Padilla lawyer jailed - February 12, 2016

A second defense lawyer, Frank Manuel Trujillo Aldana, was charged with illicit association, bribery, influence-trafficking, obstruction of justice and collusion linked to the "la linea" organized crime network headed by former President Otto Perez Molina and Vice-President Roxana Baldetti – a crime ring that stole \$120,000,000 in public funds. Perez Molina and Baldetti were forced to resign from office in 2015 and are in jail.

While this also is unrelated to the Padilla trial, it is a further indication of the type of well-connected, presumably high-priced lawyer defending Padilla, that someone (Hudbay?) is paying for.

Angelica Choc's home shot up - September 17, 2016

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. Bullet marks were found in the walls of her house, and 12-

gauge shotgun and 22-calibre bullet casings lying outside. No one was hurt, but as part of over three years of threats and intimidations, a clear message was again sent. Though denounced to the police, there was no follow-up.

After this most recent attack, Canadian lawyer Murray Klippenstein 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.”

Hudbay/CGN collaboration with “Kaibil” special forces - December 2016

During the Padilla trial, a new criminal investigation was initiated, based on evidence entered into the court record, into whether the Guatemalan military's “Kaibil” special forces worked directly with Hudbay/CGN to plan and mount a military intelligence and population control operation, before, during and after the day (September 27, 2009) of repression that resulted in the killing of Adolfo Ich, shooting-maiming of German Chub, and wounding of other community members.

Like many of the happenings related to Hudbay/CGN’s operations in Guatemala, this is a potentially explosive case of corporate-government-military collusion ... if enough political and media pressure is brought to bear on ensuring a proper criminal investigation.

Threats and intimidations - March 7-8, 2017

Angélica and German’s closing statements to the court in Puerto Barrios were another ordeal. Angélica and German, accompanied by lawyers and human rights observers, had to leave the court house under police escort after suspicious characters were following them. At their hotel, the group spotted a man observing them. This man spent the night 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 pickup – model used by company security forces - 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. As in every case of threats, intimidations and actual attacks, there has been no follow-up to any attacks or acts of intimidation and threats.

Mynor Padilla’s real name

In June 2017, Luis Solano published an article about the Padilla trial, revealing that Padilla (from the 102nd graduation class of the Guatemalan army) legally changed his name. In 1981, he registered in the army as Jaime Rolando Padilla Gonzalez, and changed his name in 1982 to Mynor Ronaldo Padilla González. (<https://cmiguate.org/mp-y-cicig-accionan-contra-libertad-de-militar-vinculado-a-minera-en-el-estor/>)

No crime in that, but what might Padilla be covering up?

Appeals court overrule – September 14, 2017

In a correct, but surprising decision (given Guatemala's entrenched corruption, racism and impunity), an appeal court completely overturned the trial court judge's April 2017 acquittal of Padilla, and ordered a re-trial by a new court with three judges, slated to begin in September 2019.

Judicial corruption? Criminal investigation into Judge - September 2018

In yet another serious twist, the CSJ (Supreme Court of Justice) in Guatemala – in response to a petition filed by the MP and CICIG - agreed to lift the legal immunity of Judge Ana Pena who had acquitted Padilla. Judge Ana Pena will be investigated by the MP and CICIG to determine if she acted criminally in rendering the April 2017 acquittal of Padilla. "Questions linger about why the Judge acted as she did, and if acts of collusion occurred, which were by all counts illegal." (Luis Solano)

- Article by Luis Solano/ Update by Grahame Russell: <https://mailchi.mp/rightsaction/criminal-investigation-into-judge-who-acquitted-mynor-padilla>

This criminal investigation into the Judge is separate from Padilla's re-trial but the results may have implications not only for the Judge but also the Padilla re-trial and the lawsuits in Canada.

Did Hudbay/Skye/CGN have a valid mining license?

In September 2018, lawyers for the Q'eqchi' communities were again before Guatemala's Supreme Court of Justice (CSJ) arguing that the mining companies – dating back to when the license was allegedly granted to Skye in 2005, through Hudbay in 2008, through Solway in 2011 - violated the Q'eqchi' people's rights to previous, free and informed consent, and that the license is invalid.

<https://mailchi.mp/rightsaction/did-hudbay-minerals-skye-resources-ever-have-a-valid-mining-license-in-guatemala-in-the-first-place>

While this lawsuit was filed in 2018, a finding in favour of the Q'eqchi' people will have serious retroactive and current day implications for Hudbay and the Solway Investment Group/CGN.

Nephew of Angelica Choc killed – March 31, 2018

On this day, Héctor Manuel Choc Cuz - nephew of Angelica, Maria and Ramiro Choc (all prominent, courageous land and human rights defenders) - was beaten to death in an attack that family members suspect may have been an attempt on the life of his cousin, José Ich. Jose – son of Angelica Choc and the deceased Adolfo Ich – is a witness in both the Hudbay lawsuits and the Mynor Padilla criminal trial. While this latest crime was denounced to the authorities, no real investigation has been initiated.

- "Nephew of Maya land and rights activist beaten to death in Guatemala", by Heather Gies, 27 April 2018, <https://news.mongabay.com/2018/04/nephew-of-maya-land-and-rights-activist-beaten-to-death-in-guatemala/#>

Justice?

When these courageous victims of mining repression decided to seek justice in Guatemala and Canada, their main aspiration was that their struggles for justice would help create fundamental political and legal changes in Guatemala and Canada so that other communities would not have to suffer the same harms and violence, corruption and impunity.

Even as the plaintiffs have made stunning advances over the past 10 years in Guatemala and Canada, no justice has yet been achieved. Either or both trials could take years more to resolve and there remains the risk of further repression against them, as the brutal killing of Hector Choc so sadly demonstrates.

Yet, with clear heart, mind and determination, the plaintiffs go forward, exposing, challenging and trying to break through the walls of corporate denial, corruption and impunity that Hudbay-Skye-CGN benefitted and profited from.

Considerable funds are needed. To donate: <http://rightsaction.org/donate/>. On request, I can send donors a full proposal and budget.

Please stay tuned.

(Grahame Russell is a non-practicing Canadian lawyer, author, adjunct professor at University of Northern British Columbia and, since 1995, director of Rights Action. For more information about the Q'eqchi' struggles of justice, or to support them: info@rightsaction.org, www.rightsaction.org.)

Media reports and video links: <http://rightsaction.org/hudbay-minerals-lawsuits-media/>

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