

'They burned everything': Guatemalan women press Hudbay Minerals on human rights claims in closely watched case

(Financial Post article, September 17, 2018)

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“A representative for Hudbay Minerals, who was present in the courtroom, referred questions to the company’s lawyers, who declined to comment.”

Next hearing: November 8, 2019, Toronto, Canada

More information / To support Mayan Q’eqchi’ victims-plaintiffs: info@rightsaction.org;
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'They burned everything': Guatemalan women press Hudbay on human rights claims in closely watched case

Their lawsuit, originally filed in 2011, ties into a trend of increasing scrutiny of Canadian mining and exploration companies’ overseas activity

by Gabriel Friedman, Financial Post, September 17, 2019

<https://business.financialpost.com/commodities/indigenous-guatemalan-women-travel-to-toronto-to-press-hudbay-on-human-rights-claims>



Irma Yolanda Choc Cac (right) and Angelica Choc (left) arrive at Toronto's 393 Courthouse, Tuesday September 17 regarding their case against Hudbay Minerals. Peter J Thompson/National Post

Two indigenous Guatemalan women stood quietly in front of a Toronto courthouse on Tuesday morning, surrounded by a scrum that included a filmmaking crew, lawyers, media and a gaggle of other people.

On a crowded city street during rush hour, the women drew little notice from passersby but their case is being closely followed by the mining sector and beyond.

Both women, Irma Yolanda Choc Cac and Angelica Choc, had travelled from a remote part of eastern Guatemala, to continue pressing legal claims that Hudbay Minerals Inc., one of Canada's oldest mining companies, bears liability for rape, violence and other human rights abuses that took place more than a decade ago when their village was razed to make way for the Fenix nickel mine.

Their lawsuit, originally filed in 2011, ties into a trend of increasing scrutiny of Canadian mining and exploration companies' overseas activity. In its wake, other plaintiffs sued at least two other mining companies under the same novel legal theory, which accuses the mining companies of negligence.

"I'm assuming any chance of resolving anything between these parties has long since left the building," the presiding case management master, Michael McGraw, who functions like a judge, said near the start of the hearing on Tuesday.

In a courtroom packed with journalists and supporters of the women, the lawyers had planned to argue about whether the plaintiffs could amend their complaint against Hudbay to include new details about the alleged human rights abuses. But that never happened and instead, the parties pushed the hearing back until November while they discuss a compromise.

The suit claims security personnel for Skye Resources — which Hudbay bought in 2008 for US\$451 million to acquire the Fenix mine project — worked with Guatemalan military and police to clear the land and raze the Mayan Q'echi community of Lote Ocho for the mining project.

Several of the plaintiffs in the case, including one present Monday, in documents filed in the case, describe the trauma — being tied, beaten and gang-raped in front of their children — in excruciating detail while under examination by Hudbay's lawyers at Fasken, Tracy Pratt and Robert Harrison.

"It was these men just like this that raped me when I was three months' pregnant," one of the plaintiffs said, adding, "And it's men just like this that are the ones that burned my house, and they burned my clothing and they burned everything I had in my house."



Lawyer Murray Klippenstein (left) embraces Irma Yolanda Choc Cac as Angelica Choc (centre) looks on after arriving at Toronto's 393 Courthouse, Tuesday September 17. Peter Thompson/National Post

The other plaintiff claims the head of mining security killed her husband for protesting against the mining company.

The plaintiffs' lawyers say they have gained new details from documents and emails that Hudbay produced during the litigation to substantiate the alleged human rights abuses. Already, they have filed documents in court that contain new details related to payments Skye made to military and police, and to the arrangements between Skye's security force and local police and military.

At the hearing, lawyers for Hudbay said they would consider agreeing to allow the plaintiffs amended complaint, although they may file a new motion challenging whether Ontario is the proper jurisdiction to hear the claims. They had filed a motion to move the case to Guatemala earlier in the case, but Hudbay withdraw it before a ruling was ever handed down.

Meanwhile, in a separate case using the same legal theory filed against Tahoe Resources, a B.C. judge ruled that the negligence case could be heard in Canada. Earlier this year, Pan American Resources Inc., which purchased Tahoe, publicly apologized to the plaintiffs and reached a confidential settlement.

There remains one other suit that uses the same theory, against Nevsun Resources Inc., which was purchased by a Chinese company in 2018, accusing it of using forced labour and of committing other human rights abuses on a mining project in Eritrea.

A representative for Hudbay, who was present in the courtroom, referred questions to the company's lawyers, who declined to comment.

Hudbay sold its interest in the Fenix mine for US\$170 million in 2011, shortly after the lawsuit was filed. It retained liability, however, and continues to fight the case.

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More information / To support Mayan Q'eqchi' victims-plaintiffs:

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Background information:

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

By Grahame Russell, June 12, 2019, <https://mailchi.mp/rightsaction/is-justice-possible-in-canada-or-guatemala-for-hudbay-minerals-mining-repression>

Canadian Companies Mining With The Genocidal Generals In Guatemala

By Grahame Russell, Rights Action, April 6, 2019, <https://mailchi.mp/rightsaction/mining-with-the-genocidal-general-in-guatemala>

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

Defensora (2013)

An award-winning 40 minute film by Rachel Schmidt, documenting Maya Q'eqchi' peoples' struggle in Guatemala to reclaim ancestral lands and to seek justice in Canadian and Guatemalan courts for murder, shootings and rapes committed by police, soldiers and private security guards working for Canadian mining company Hudbay Minerals/Skye Resources and their former Guatemalan subsidiary CGN.

Trailer: www.defensorathefilm.com

Film: <https://vimeo.com/75725049>

Hudbay Minerals lawsuits

November 25, 2017: The Drop video interview with Cory Wanless and Grahame Russell

View: <https://www.facebook.com/thedropvideo/videos/370077746779053/>

Hudbay Minerals on Trial: Impunity Reigns (2017)

This 4 minute film by Lazar Konforti reports how on April 6, 2017, Mynor Padilla – ex Hudbay Minerals/Skye Resources head of security – was found “not guilty” by Judge Ana Leticia Pena Ayala of killing Adolfo Ich and shooting-paralyzing German Chub Choc.

View: https://www.youtube.com/watch?v=xch_LMzfl7Q&feature=youtu.be

Choc vs. Hudbay (2016)

5 minute film by James Rodriguez: Interview with Angelica Choc during the annual commemoration of the life of her husband, Adolfo Ich, assassinated September 27, 2009, by Mynor Padilla and security guards working for Hudbay Minerals and its subsidiary CGN (Guatemalan Niquel Company).

View: <https://vimeo.com/191327705>

How Can Angelica Choc and German Chub Get Justice? (2016)

3 minute report by Steven Schnoor documenting how the Judge (Ana Leticia Pena Ayala) in the Adolfo Ich murder trial, ordered – May 2016 - a “security protection detail” for Mynor Padilla, ex head of security for Hudbay Minerals (and former lieutenant colonel in the Guatemalan Army), on trial for murder and the shooting-paralyzing of German Chub in September 2009.

View: <https://www.youtube.com/watch?v=rllt5geTIJc&feature=youtu.be>

Mynor Padilla Trial: Racial Discrimination / Caso Mynor Padilla: Discriminacion Racial (2016)

4 minute film by Lazar Konforti on unsuccessful efforts to have allegedly corrupted Judge Ana Leticia Pena Ayala recused from Mynor Padilla trial. Angelica Choc addresses the court, as Mynor Padilla and his team of lawyers (allegedly paid for by Hudbay Minerals) look on; Includes a song written and sung by Adolfo Ich, Angelica’s husband, killed by Mynor Padilla and his security guards on September 27, 2009, when they worked for Hudbay Minerals/CGN.

View: https://www.youtube.com/watch?v=Q_nLF-bke1k&feature=youtu.be

Hudbay on trial for murder in Guatemala / Hudbay enjuiciada por homicidio en Guatemala (2015)

4 minute report by Lazar Konforti: Mynor Padilla, Hudbay Minerals' former chief of security at their mine in Guatemala (which they sold in 2011 to Switzerland company Solway Investment Group), is on trial for murdering community leader Adolfo Ich during an attack by Hudbay's security personnel against community members in 2009. Angélica Choc, Ich's widow, fears for her safety as she has to confront her husband's murderer in court.

View: <https://www.youtube.com/watch?v=ke-mmuPHqFY>

They Cut Me In Half: Fundraiser for German Chub Choc (2014)

5 minute film by Lazar Konforti documenting the life of German Chub, a young Maya-Q'eqchi' father left paralyzed after being shot by Mynor Padilla, head of security for Hudbay Minerals in Guatemala. One lung was permanently damaged; the bullet remains lodged next to his spinal column.

View: <https://www.youtube.com/watch?v=PXEIOWBU0E>

Defending Q'eqchi' Territory from Mining: Rebuilding Lote Ocho (2014)

5 minute film by Lazar Konforti documenting how private security forces employed by Hudbay Minerals/Skye Resources, along with Guatemalan police and soldiers, destroyed the Maya-Q'eqchi'

community of Lote Ocho, burning 100 homes to the ground, destroying personal property and food, and gang-raping 11 women villagers. Community members are rebuilding homes and community.

View: <https://www.youtube.com/watch?v=xuuJSIztTK8&feature=youtu.be>

Precedent Setting Hudbay Minerals Lawsuits In Canada

The Real News interview (October 13, 2013) with Grahame Russell

http://therealnews.com/t2/index.php?option=com_content&task=view&id=31&itemid=74&jumival=10902

Testimony of Rosa Elbira: Gang-rapes at Canadian mine in Guatemala (2010)

In 2007, private security forces employed by Canadian company Skye Resources (later owned by Hudbay Minerals), along with Guatemalan police and soldiers, violently evicted the Q'eqchi' community of Lote Ocho, burning 100 homes to the ground, destroying all personal property and food stuffs, and gang-raping 11 women villagers. Rosa Elvira is one of the women.

View: <https://www.youtube.com/watch?v=dSGuDk4cnz4>

Violent Evictions at El Estor, Guatemala

By Steven Schnoor, this 10 minute film (2007) documents illegal, forced evictions of Mayan Q'eqchi' communities in Guatemala on behalf of Skye Resources/Hudbay Minerals.

View: <https://www.youtube.com/watch?v=JgwtLuISE1Y&t=10s>

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