

Hudbay Minerals Evades Justice for Crimes in Guatemala

How much money is Hudbay Minerals spending to drag out precedent setting civil lawsuits in Canada and a courageous criminal trial in the Guatemala?

By Grahame Russell, September 12, 2015

<http://www.telesurtv.net/english/analysis/Hudbay-Minerals-Evades-Justice-for-Crimes-in-Guatemala--20150912-0020.html%22>

Six years after the mining related crimes took place at Hudbay's mine site in Guatemala, no justice has been done for the victims, neither in Guatemala nor in Canada.

Most recently, Hudbay paid John Terry, a partner at the well-connected Toronto-based Torys law firm (<http://www.torys.com/people/terry-john-a>), for "many hours of work" (as Terry said in a Guatemalan courtroom on Sept. 1, 2015) to provide selective and highly misleading testimony in a criminal proceeding in Guatemala.

Criminal Trial in Guatemala

In Guatemala, Hudbay's former head of security, Mynor Padilla (a Colonel in the Guatemala Army), is on trial for the murder of Adolfo Ich (a Mayan Q'eqchi' community leader, father of five, teacher), the shooting-paralyzing of Q'eqchi' man German Chub (campesino, father of one), and the shooting-wounding of 7 other Q'eqchi' men.

For three years after the Sept. 27, 2009, murder of Adolfo Ich and shooting of German Chub, Mynor Padilla was not even detained. Even when there was a capture order pending against him, he was living openly in and around Hudbay's mine for much of that time, remaining on Hudbay's payroll for some or all of that time. Even after he was detained and jailed, 3 years later, it took another year and a half for the trial to even begin.

(Even as the criminal trial now proceeds, there are separate legal proceedings in Guatemala against Hudbay's formerly owned subsidiary CGN (Guatemalan Nickel Company) related to the suspicious death of three university students in March 2012 on the nickel mining property. The students, from the Universidad del Valle de Guatemala, were participating in a study exchange program with CGN, and had gone to spend a week with CGN personnel. Their beaten bodies were found dead in shallow water by the CGN nickel processing plant. CGN claims they fell out of a boat and drowned while investigating, with CGN

personnel, the impacts of mining on aquatic life in Lake Izabal. The families of the students claim they were murdered by CGN personnel, for unclear reasons.)

Civil Lawsuits in Canada

In Canada, Hudbay and CGN are being sued for negligence for their actions and omissions resulting in the gang rapes of 11 Q'eqchi' women in the isolated community of Lote 8, the murder of Adolfo Ich and the shooting-paralyzing of German Chub. CGN is included in the lawsuits not only as the former subsidiary of Hudbay, but – in the case related to the murder of Adolfo Ich – as a co-defendant in its own right.

First filed in 2010, the civil lawsuits in Canada have not yet gotten to trial. Since the very beginning, Hudbay lawyers have used a series of costly, time-consuming legal strategies to try and stop the proceedings, or at least slow them down.



(Former President, now jailed Otto Pérez Molina poses in front of the CGN nickel mine, re-inaugurated in June 2014, before Perez Molina was ousted on corruption charges.)

Profiting from Mining Repression

While John Terry's participation in the Padilla trial has likely been profitable for Terry himself, who confirmed he was working for Hudbay (though he did not say what his hourly rate was, nor how much money he had received in total), it appears to be one more tactic by Hudbay to deny justice to some very poor Q'eqchi' people who have suffered enormously due to the actions and omissions of Hudbay and CGN.

In late 2011, Hudbay sold CGN and its mining interests to The Solway Group for some US\$250 million less than what Hudbay paid for them in 2008. It was part of the sale agreement that Hudbay would respond to and pay for the civil lawsuits

in Canadian courts. Thus far, that makes five years of paying a team of lawyers at the Faskens Martineau law firm, and now a Torys lawyer ... and the trial has not actually begun. Ominously, Terry said in the Guatemalan court that the trial in Canada might not start for many years to come.

To my knowledge, Hudbay has never stated publicly they are paying for Padilla's criminal defense costs in Guatemala, which includes paying for a team of three well-connected lawyers. One of Padilla's lawyers, Francisco Palomo, was a defense lawyer for former General Rios Montt, found guilty of the crime of genocide against the Mayan Ixil people during the worst years of U.S.-backed repression and genocide in the 1980s.

On June 3, 2015, Palomo was shot 12 times by a hit-squad, and killed in broad daylight in Guatemala City.



(April 14, 2015, Puerto Barrios, Guatemala: Mynor Padilla, former Hudbay head of security, standing (center). Seated to his left is Francisco José Palomo Tejeda (since killed by a hit squad), along with two other defense lawyers Frank Manuel Trujillo Aldana and Carlos Rafael Pellecer López.)

Terry's statement (made in court on September 1) that Hudbay was paying him to give a legal opinion on its behalf – plus covering his costs that included flying in a corporate jet from Guatemala City to Puerto Barrios where the trial is taking place – is confirmation of Hudbay's direct financial role in the criminal trial in Guatemala.

This would not be surprising. Why would The Solway Group, when they purchased CGN and the "Fenix" mine from Hudbay, assume the costs and

responsibilities for a criminal trial related to mining repression that occurred when Hudbay owned and was in control of the operation?

High-Priced Defense versus Poverty and Suffering of the Plaintiffs

While it is not clear why Hudbay is paying for a lawyer from another well connected Canadian law firm to intervene in the criminal trial in Guatemala, that legally has no implications for Hudbay, what is clear is that Hudbay is paying lawyers in two of Canada's most influential law firms, and probably as well the team of high-powered lawyers in Guatemala to drag out both the civil suits in Canada and the murder trial in Guatemala.

I write this from El Estor, Guatemala, a few hundred yards from where Adolfo Ich was murdered and German Chub shot and left for dead. On Sept. 11, with Angelica Choc, Adolfo's widow, we drove two hours up a precarious dirt road in a 4x4 pickup and met with the Lote 8 community to update them on where the civil lawsuits are at in Canada, and explain why they were taking so long.

It has been eight years since nickel company security guards, and Guatemalan police and soldiers, burned 100 homes to the ground in Lote 8, burned or destroyed any property and food, and gang raped the 11 women. Only recently, have the Lote 8 families had the courage to start rebuilding their homes on the very spots where they were burned.

Six years after the crimes against Adolfo and German, eight years after the destruction and gang rapes in Lote 8, the victims of Hudbay's mining related repression live on in poverty and loss.

In the shadow of the mining operation that The Solway Group and CGN reinitiated in June 2014, Angelica is alone raising her children. In the remote community of Lote 8, the eleven gang-rape victims are getting on with their lives, helping re-build their homes and community.

In some ways, German's life is the hardest. Wheelchair bound, in a rural setting of poverty that is decidedly unfriendly to wheel-chairs, he suffers ongoing health complications due to his paralysis. He also lost the use of one lung, and the bullet remains lodged precariously close to his spine. There is simply no work for someone in his condition, as he tries to care for his son and aging parents.

Extraordinarily, they all are resolute in their determination to continue with the pursuit of justice, and in Guatemala where they risk further repression at the hands of family and military supporters of former Colonel Mynor Padilla, and in Canada where they risk many years more of legal delays by Hudbay's team of well-connected, well-paid lawyers.

More Information:

- Lawsuits in Canada: www.chocversushudbay.com
- Criminal trial in Guatemala: info@rightsaction.org

Tax-Deductible Donations (US and Canada)

To support the Mayan Q'eqchi' victims/plaintiffs as they struggle to end the impunity of Hudbay and CGN and achieve justice in the criminal trial in Guatemala and the precedent setting civil lawsuits in Canada, make check payable to "Rights Action" and mail to:

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

Credit-Card Donations (Canada & U.S.): <http://www.rightsaction.org/tax-deductible-donations>
To donate stock, contact: info@rightsaction.org

“Defensora”

Screen this award winning film by Rachel Schmidt that documents the lives and vision of the Mayan Qeqchi people and their efforts to seek justice in Canadian courts against Hudbay Minerals and CGN. Trailer/Information: www.defensorathefilm.com
