

Solway Investment Group/CGN repression in Guatemala against Q'eqchi' land, rights and environmental defenders

Background article by Sandra Cuffe, Mongabay.com

Indigenous mine opponents targeted in raids during state of siege in Guatemala

by Sandra Cuffe, 15 November 2021

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In the midst of a long conflict and recent protest over a nickel mine in El Estor, in eastern Guatemala, police have carried out more than 40 raids and 60 arrests, and the government has declared a 30-day state of emergency.

Indigenous Mayan opponents to the mine say they were never properly consulted about the mine and its impacts on their lands, livelihoods and lake, and protested on the town's main road, refusing passage to mining vehicles.

Four police were shot during the police crackdown on protests by what the government blames as armed protestors, although mine opponents say the assailants were not involved in the protest.

There are concerns mining operations will pose environmental damages to Guatemala's largest lake, home to diverse fish, bird, reptile and mammal species, including the endangered Guatemalan black howler monkey (*Alouatta pigra*).

EL ESTOR, Guatemala — Germán Chub was still sleeping when police and military personnel showed up outside his home. It was the fourth day of a month-long state of siege, akin to martial law, in El Estor, eastern

Guatemala, in the wake of the latest flashpoint in a decades-long, multifaceted conflict over a nickel mine.

Chub's wife went out the door a few minutes before six o'clock in the morning on Oct. 27, on her way to grind the maize she would make into tortillas for the day. Police waiting in the street informed her they were there to search the house and entered with personnel from the country's Office of the Public Prosecutor. Chub was forced to get up and get into his wheelchair.

"It scared me," Chub told Mongabay. "They just said they were there for a raid and that they had been sent."



The home of German Chub, paralyzed in 2009 when he was shot by the Fenix mine head of security at the time, was raided during the ongoing state of siege in El Estor. Image courtesy of Sandra Cuffe.

It was not the first time Chub had experienced fallout from the mining conflict.

During protests against the Fenix nickel mine in 2009 [then owned by Canadian company Hudbay Minerals] over land rights, he was shot and paralyzed from the waist down by Mynor Padilla, the mine's head of security, who also shot dead anti-mining activist Adolfo Ich Chamán.

Mongabay first spoke to Chub in 2015 [during the trial](#) and again in 2017 when Padilla was [initially acquitted](#). After appeals, Padilla eventually took a plea deal and was [convicted](#) this past January [of shooting-paralyzing German Chub and killing Adolfo Ich].

The Fenix nickel mine has been tied to conflict and violence for more than half a century, when it was formerly owned by EXMIBAL, a subsidiary of Canadian miner INCO.

Indigenous Maya Q'eqchi' residents were never consulted, and their exclusion from a court-ordered consultation process prompted protests, a crackdown and violence that left four police officers with gunshot wounds in October this year.

The ensuing state of siege and raids targeting community leaders, outspoken mine opponents and local journalists — all Indigenous Maya Q'eqchi' — have sparked alarm and condemnation in Guatemala and beyond.

“I do not even have the words to express myself about what they are doing,” Chub said. “Everything they are doing in El Estor is unjust.”

Police raided the homes of two journalists and at least nine community authorities, fishers' guild leaders and protesters during the last week of October.

In early November, Mongabay visited several families in El Estor whose homes were raided and spoke with other leaders in hiding. Hundreds of police officers, soldiers and marines were in the area, patrolling and stationed at different points around town, including fanned out along a stretch of road between El Estor and the mining complex 6 kilometers (4 miles) to the west.



Guatemalan marines fan out along the access street to a pier during the state of siege in El Estor. Image courtesy of Sandra Cuffe.

The Fenix project is now owned by the Solway Investment Group, a private mining and metals corporation based in Switzerland, after decades of Canadian ownership. When it acquired the Fenix mine in 2011, Solway was based in another tax haven, Cyprus, and widely acknowledged to be a Russian company.

Protests and condemnation related to the state of siege continue to target both the Swiss and Russian embassies in Guatemala. Solway's press office told Mongabay in a written statement that the company is fully owned by European Union citizens and that there is no Russian capital or investment in the company. Russian is one of the company's working languages because Solway operated several projects in that country in the past, according to the company. Many high-level employees at the Fenix project in Guatemala are Russian.

The project includes mountaintop mining and ferronickel processing facilities near the shore of Lake Izabal, the country's biggest lake. The lake, waterways and lands in the region are at the heart of sustained opposition to the mine. Indigenous communities in the region primarily live from subsistence agriculture and fishing, and want to ensure the environment can sustain those livelihoods for future generations.

“That’s why we were supporting the resistance. People want to look out for their children, their grandchildren,” Chub said.

Battles over proper consultation

The municipality of El Estor is home to some 82,500 people, more than 90% of them Q’echi’, according to the most recent national census.

In 2019, Guatemala’s Constitutional Court ruled in favor of El Estor’s small-scale fishers’ guild and other local plaintiffs, and determined that Indigenous communities in the mine’s area of influence were never properly consulted about the project.

The court issued an injunction, ordering the suspension of the mining license held by Solway subsidiary CGN, pending consultation.



The ongoing operation of the ferronickel processing plant despite a court order suspending operations at the mine is one of the drivers of recent protests (2017). Image courtesy of Sandra Cuffe.

In a 2020 ruling, the Constitutional Court reiterated the suspension order and laid out guidelines for a consultation process to be carried out by the Ministry of Energy and Mines. Free, prior and informed consultation is required under the International Labour Organization’s Convention 169 on Indigenous and Tribal Peoples, which Guatemala ratified in 1996.

The defendant in the case was the Ministry of Energy and Mines, not the company, the Solway Investment Group's press office noted. "The company received the order to suspend the license on February 4, 2021, and ceased its operating activities at the Fenix mine as of February 5, 2021," according to the press office.

However, the ferronickel processing plant kept running. Operated by another subsidiary of Solway, Pronico, rather than CGN, the subsidiary whose license was suspended, the plant is now processing ore from other mining operations in the region. Mine opponents say the distinction between the subsidiaries is spurious and argue the suspension should apply to the plant because it is located within the mining license area.

The continuation of mining operations, long after the court rulings, has stoked discontent, as has the government's management of the pre-consultation process. The Constitutional Court ruling addressed how formally recognized entities ostensibly representing local populations do not necessarily represent or speak for Indigenous peoples. Many Q'eqchi' residents say that is the case with the pre-consultation dialogue, which includes a formally recognized Indigenous council that mine opponents have argued for years is coopted by mining interests.

"They just self-elect themselves. They were not going to look out for the interests of the people," said Luis Adolfo Ich, a primary school teacher and community leader whose home was raided on Oct. 27, along with that of his mother, Angélica Choc.

Ich is the son of Adolfo Ich Chamán, the community leader killed by the Fenix mine security personnel on Sept. 27, 2009, the same day Chub was shot. Padilla, the former head of security, was also convicted on Jan. 6, 2021, for killing Ich Chamán.

"The state really does not respect the rights of Indigenous peoples," Ich said in a telephone interview from another part of the country, where he and some other community leaders had fled out of fear for their safety. "A decision was made to organize another ancestral council," he said.



Two Q'eqchi' women watch an army truck carrying soldiers drive past along a main street in El Estor during the state of siege. Image courtesy of Sandra Cuffe.

On Jan. 30, traditional local authorities, elders, midwives, fishermen, community leaders and other Q'eqchi' residents from around the municipality gathered in El Estor at an assembly to form a new Q'eqchi' ancestral authorities council. They elected representatives, including Ich, from several dozen communities.

Ever since, they have been unsuccessfully attempting to get the Guatemalan government to recognize the council for inclusion in the pre-consultation process.

The Ministry of Energy and Mines held the first pre-consultation dialogue meeting Sept. 28 in Puerto Barrios, 120 km (75 mi) from El Estor. Thirty-eight representatives from 13 national and local government institutions, universities, the CGN mining company, and the controversial Indigenous council participated. The Q'eqchi' ancestral council was excluded and called a protest that began Oct. 4 on the main road into El Estor, refusing passage to vehicles related to mining activities, and in particular trucks hauling ore out and bringing in coal needed to fuel the processing facilities.

The protesters stood their ground for two and a half weeks, demanding inclusion in the pre-consultation process and the suspension of the mine's processing plant operations.

Police and company officials attempted to persuade the protesters to clear the road and allow coal trucks to pass, but were turned away. On Oct. 22, police moved in, using force and tear gas to disperse people and clear the road. Police officers later escorted coal trucks heading to the Fenix mine complex, running alongside them to ensure their passage.



Maya Q'eqchi' residents of El Estor watch as riot police fire tear gas at the previous May 27, 2017 protests on the Fenix mine. Image courtesy of Sandra Cuffe.

Dozens of raids and a monthlong crackdown

During the crackdown, four police officers were shot in the leg. They are recovering at home, a national police spokesperson told Mongabay.

Q'eqchi' mine opponents told Mongabay that some protesters threw rocks at police but that any armed assailants who shot at police were not involved in any way in the protest.

The Guatemalan government issued a [public statement](#) Oct. 24, accusing the protesters of shooting police officers "after 17 days of illegal blockades by a small group of people who it is assumed do not live in the area."

Cristián Xol was one of the El Estor residents there, including on the day in question. "I participated but it was a really peaceful protest," said the 25-year-old. When police cracked down, the situation became chaotic and

there were shots fired, but not by protesters at the action led by Q'eqchi' community leaders, he said.

At least two of the several pro-mine Facebook accounts sharing local news insinuated Xol may have shot police, in a post that included three unrelated photographs: one of Xol, one of someone else with a gun, and one of guns. Police had a screenshot of the Facebook post in hand when they raided Xol's home looking for guns, he said.

Finding weapons was also the key aim of a previous search warrant covering nine other properties. "Find firearms, homemade weapons, vehicles reported stolen and objects of unlawful origin," reads an instruction emphasized in bold, underlined, and upper case on the final page of the warrant.

The raid on the Xol family home occurred a week after the government's declaration of a 30-day state of siege in the municipality of El Estor. However, news of the Oct. 23 decree did not surface until the following morning.

Under the dictatorship-era Public Order Law, Guatemala has five kinds of states of emergency — prevention, alarm, calamity, siege, and war — under which some constitutional rights and freedoms can be suspended and military involvement warranted.



Soldiers descend from an army truck parked in a block along the Lake Izabal shore that the military is using as a staging area during the state of siege in El Estor, Guatemala.
Image courtesy of Sandra Cuffe.

By law, the military is now in charge of civilian authorities in El Estor for the duration of the state of siege, though spokespersons for the Ministry of Defense and National Civilian Police both told Mongabay that in reality it is a very coordinated, interinstitutional effort. Freedoms of assembly and movement are restricted and a curfew from 6 p.m. to 6 a.m. is in place. The constitutional rights to legal detention and legal interrogation are suspended.

“This is a textbook intervention,” said Iduvina Hernández, executive director of the Association for the Study of Security in Democracy. “It is a pattern of systematic actions to halt the progress of the Q’eqchi’ resistance in El Estor.”

Roughly 600 police officers and 300 military personnel are currently in El Estor, according to the spokespersons for the two institutions. So far, police have carried out more than 40 raids and more than 60 arrests, according to the police spokesperson.

Some El Estor residents say they’re relieved the government declared a state of siege. “When there is a state of siege, one can sleep a little easier. There are many gang members that break into houses to steal,” a woman told Mongabay early one morning shortly after the curfew lifted while she fished from the edge of a lakeshore block the military was using as a staging area. She requested anonymity, citing potential retaliation from local criminals.

“The mine has brought quite a lot of development to the town,” she said, holding the line she had baited with pieces of tortilla to catch small fish for consumption. She also sells cosmetic products and said the wives of mine and plant workers are good clients, adding that workers spend their wages at local businesses. “Blockades affect the population,” she said of the recent protests. “They are people who do not want to work.”



A woman who supports the mine and state of siege in El Estor holds a fish she just caught from a little concrete pier along the Lake Izabal shore. Image courtesy of Sandra Cuffe.

While Mongabay was in El Estor, a few dozen people had traveled to Guatemala City to rally in favor of mining and the state of siege. At least one protest sign was already requesting the government to extend the state of siege for another 30 days. “The residents of El Estor collected more than 1,300 signatures on open letters of gratitude to the police, the Ministry of the Interior, and the President of Guatemala,” according to Solway’s press office, which added that neither it nor its subsidiaries had requested the police presence or state of siege.

National and international human rights organizations, on the other hand, have condemned the police crackdown on protests, the state of siege, raids, and attacks on local press. “The Inter-American Commission on Human Rights (IACHR) condemns the use of excessive force against protesters and members of Maya Q’eqchi’ communities as well as acts of repression against journalists and media outlets recorded in recent days in the municipality of El Estor,” the IACHR wrote Nov. 4 in a Spanish-language [statement](#).

Local press targeted

The local Xyaab’ Tzuultaq’a community radio station was a target on Oct. 24, day one of the state of siege. It broadcasts almost exclusively in the

Q'eqchi' language and is a means of news, communication and coordination for communities throughout El Estor, some of which do not have cellphone reception or even electricity. In some Q'eqchi' areas, many people, especially women and elders, speak little or no Spanish.

“Companies have a hatred for the radio,” said Robin Macloni, executive director of Defensoría Q'eqchi', a nonprofit local rights group linked to the volunteer-run radio it helped get off the ground in 2017. In practice, though, “the radio is the hands of ancestral authorities,” Macloni said. During the October protests, Q'eqchi' council members used the radio to let people know which communities had turns maintaining the protest camp on which days, as they were taking rotating shifts around the clock.

When police cracked down on the protests, Defensoría Q'eqchi' and Xyaab' Tzuultaq'a knew they would be targeted. On the morning of Oct. 24, they read the state of siege decree on air, announced they would have to suspend broadcasting, and removed all the transmission equipment from the building, Macloni said. Police did not raid the station as no one was present at the property.

Two days later, police raided the homes of local journalists Juan Bautista Xol and Carlos Ernesto Choc. As local correspondents for Prensa Comunitaria, an independent community-based digital publication, they had been covering the protests and crackdowns, later becoming targets of police violence in the mix. Since the raids, their relatives have reported being followed, questioned and surveilled by uniformed police officers as well as unmarked gray pickup trucks with tinted windows.



At the local prosecutor's office in El Estor, human rights lawyer and Q'eqchi' journalist Carlos Ernesto Choc speak out against attacks on the local press. Image courtesy of Sandra Cuffe.

“Human rights defenders and especially journalists [like Choc] who have denounced this situation ... are at high risk,” Francisco Vivar, a lawyer with the Center for Human Rights Legal Action, said in early November outside the local prosecutor's office in El Estor, where he was accompanying Choc.

Choc had fled El Estor for safety but had to sign a registry at the prosecutor's office every month as part of his bail conditions. Four years ago, Choc had reported on El Estor small-scale fishers' guild protests against the mine and was later criminalized alongside several fishermen.

This included guild president Cristóbal Pop, whose home was also raided during the state of siege, and former guild vice president Eduardo Bin, who was arrested during the state of siege on an old, expired arrest warrant. He was later released.

Fears for Guatemala's largest lake

Fishermen have noted changes and fish stock depletion for years in Lake Izabal. In 2017, a red patch of discolored water appeared in the lake, and the fishers' guild blamed the mine, filed a formal complaint, and organized protests. With a surface area of 590 square kilometers (228 square miles), Lake Izabal sustains local livelihoods but also important ecosystems and

protected areas home to diverse fish, bird, reptile and mammal species, including the endangered Guatemalan black howler monkey (*Alouatta pigra*).

The lake itself, which drains into the Caribbean, is also home to a population of manatees (*Trichechus manatus*), the symbol of the town of El Estor.



El Estor residents, particularly women and children, bait fishing line with pieces of tortilla and bread to catch small fish from the Lake Izabal shore. Image courtesy of Sandra Cuffe.

Government studies have shown that “90% of the water pollution is generated not by the company’s operations but by the local communities residing along the Polochic River [that feeds into Lake Izabal]. The company’s contribution to the water pollution is minimal,” Solway wrote in a [2017 public statement](#). The company does not discharge any type of waste water and “carries out the most extensive environmental monitoring of water quality in Lake Izabal in the region,” the company’s press office told Mongabay.

Killing of 3 university students on Solway/CGN property

Many Q’eqchi’ fishermen and community members do not trust the company or government. A private Guatemalan university, Universidad del Valle, was conducting research in the area when Solway acquired the

Fenix project. The following year, in 2012, three biology students were killed on mining company property while monitoring crocodiles and taking water samples as part of a university-company exchange program. In 2019, a court convicted a CGN mining company biologist of culpable homicide and found CGN civilly responsible. The sentence was overturned in September 2021 and the legal battle continues.

The deaths fed local perceptions of mining pollution and a cover-up. “In the future we will see the consequences,” Luis Adolfo Ich said of all the mining and oil palm industry operations around the lake. “The struggle of the ancestral authorities and the guild is to protect the lake from pollution.”



Maya Q'eqchi' fishermen set out on Lake Izabal shortly after the curfew lifts. Image courtesy of Sandra Cuffe.

Fishers' guild protests in El Estor in May 2017 blocked the road leading to the Fenix mine, and riot police cracked down on May 27, firing tear gas and some live rounds. Local Q'eqchi' fisherman Carlos Maaz was shot in the chest and killed, one of the latest in a long list of people killed in connection with the mine.

In 1965, a military dictatorship granted mining rights to EXMIBAL, a 50:50 joint venture between the Guatemalan government and Canada's International Nickel Company (INCO). EXMIBAL's operations took place during the 1960-1996 armed conflict between leftist guerrillas and the state.

The military committed the first large-scale massacre of civilians in 1978 in Panzós, 26 miles west of El Estor, where Q'eqchi' villagers were protesting for rights to their traditional lands, a massive swathe of which had been given to EXMIBAL.

Mining company personnel shot some El Estor community residents while they were on their way to the Panzós protest, according to a United Nations-backed truth commission into crimes against humanity during the armed conflict.

A congressman and another member of an ad-hoc committee investigating EXMIBAL's acquisitions were assassinated in 1970 and 1971.

Over time, EXMIBAL became CGN and Guatemala's 50% stake decreased to 1%.

In the 2000s, there were waves of evictions and crackdowns while the project was owned by Skye Resources and then Hudbay Minerals, both Canadian companies that tried to get the project up and running.

Solway acquired the Fenix project in 2011 and restarted production in 2014.



“Responsible Mining” reads a sign in 2007 at the Fenix mine owned by CGN, then a subsidiary of Sky Resources, a Canadian company. Image courtesy of Sandra Cuffe.

“The story remains unchanged. It is the same,” said Olga Che, treasurer of El Estor’s small-scale fishers’ guild, a member of the new Q’eqchi’ authorities council, and a prominent figure at the recent protests. “The history of the armed conflict remains unchanged.”

In 1980, when Che was 2 years old, the military showed up and took away her father, who was never seen again. He was a very active member of the Catholic church at a time when the military government was targeting church figures openly sympathetic to human rights and land rights struggles. Che’s father is one of an estimated 45,000 people who disappeared during the armed conflict.

“We do not know if he is alive, if he is dead, or if they threw him somewhere. Who knows,” Che told Mongabay.

When soldiers and police showed up outside Che’s mother’s house on Oct. 26, lining the block, she was reminded of the incident in 1980 when the military took her husband. She has been unwell ever since the raid, said Che, whose own home was also raided while she and her husband and kids were at her mother’s place. Police dug holes in the dirt floor of the home.

A police officer threatened Che’s 11-year-old daughter with a beating and another grabbed her 8-year-old son by the arms, telling them to “tell the truth” about weapons on the property, Che said. Police also stole and ate tamales from the kitchen, according to the family. Che also said she and her husband were coerced into signing the written record drawn up at the end of the raid without getting a chance to read it.



Olga Che, a community leader in El Estor and local fishers' guild treasurer, sits outside her mother's home, where she and her family were staying when it was raided. Image courtesy of Sandra Cuffe.

Those claims are false, according to the national police spokesperson, who said that personnel from the prosecutor's office were on site along with police during raids. Had something like that occurred, residents should have filed a formal complaint with the prosecutor's office or the police's inspectorate-general, the spokesperson told Mongabay, adding that "anything like that would not have been tolerated."

That same day, 182 km (113 mi) away in another department, the Ministry of Energy and Mines wrapped up the third and final meeting of the pre-consultation process concerning the Fenix mine. None of the meetings took place in El Estor, and two of the three were held during the ongoing state of siege. The actual consultation process, consisting of an informational phase and then "intercultural dialogue," is set to begin during the state of siege and wrap up in December.

"If they do not listen to us we have the right to protest," Che said. "I was there to defend our mountains and to defend our lake."

Video: Angelica Choc and Lote 8 women denounce mining repression linked to Solway Investment Group

<https://www.youtube.com/watch?v=0Nfys7sHMIU>

Recent repression

- Mining repression explodes against Q'eqchi' people. The "Fenix" mining operation in Guatemala is ILLEGAL (Oct. 20, 2021), <https://mailchi.mp/rightsaction/fenix-mining-operation-in-guatemala-is-illegal>
- Mining repression against Angelica Choc, German Chub and 100s of Maya Q'eqchi' land / human rights defenders (Oct. 27, 2021), <https://mailchi.mp/rightsaction/repression-against-angelica-choc-german-chub>
- Angelica Choc and Lote 8 women speak out (Oct. 28, 2021), <https://mailchi.mp/rightsaction/angelica-choc-and-lote-8-women-speak-out>
- Canadian lawyers for Angelica Choc & German Chub speak out about repressive raids against their clients in Guatemala (Oct. 28, 2021), <https://mailchi.mp/rightsaction/canadian-lawyers-for-angelica-german-speak>
- Arbitrary detention of son of Angelica Choc and the deceased Adolfo Ich Chaman, <https://mailchi.mp/rightsaction/detention-son-of-angelica-choc-and-adolfo-ich>

Keep your sending letters to

- Solway Investment Group: Baarerstrasse 8, 6300 Zug Switzerland, +41417400400, bd@solwaygroup.com, media@solway.ch, www.solwaygroup.com
- Embassy of Switzerland, Guatemala: +502 2367 5520, guatemalacity@eda.admin.ch, sanjose@eda.admin.ch
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- European Union Human Rights in Guatemala: jennifer.echeverria@eeas.europa.eu

TESTIMONIO: CANADIAN MINING IN THE AFTERMATH OF GENOCIDES IN GUATEMALA

The Solway Investment Group/ Huidbay Minerals/ INCO related resistance struggle is one of four community defense struggles documented and analyzed in *TESTIMONIO*, edited and co-written by UNBC's Professor Catherine Nolin & Rights Action's Grahame Russell.

- Watch Book Launch, Oct.25, 2021: <https://www.youtube.com/watch?v=T7ZeNaMaFtk>
- Order books: <https://btlbooks.com/book/testimonio>
- Bulk purchases: Karina Palmitesta, karina@btlbooks.com
- More information: www.testimoniothebook.org

More information at Rights Action archives: <https://rightsaction.org/huidbay-minerals-archives>

Emergency Response Fund

Rights Action is sending emergency human rights funds to people we have long worked with in the Solway Investment Group impacted region, including the plaintiffs in the Hudbay Minerals lawsuits, the Gremial de Pescadores y Campesinos, and the Ancestral Council of Q'eqchi' people.

Funds are used to:

- Help people who have fled the military state of siege in El Estor
- Replace iphones and communication devices that were lost or illegally confiscated
- Support families whose bank accounts are frozen or family members were forced to flee military crackdown
- Help mobilize human rights activists to try and reach El Estor to bear witness
- Prepare for legal defense costs related to abusive-trumped up criminal charges

Make checks payable to "Rights Action" and mail to:

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