

<http://www.theworld.org/2012/11/guatemala-mining-hudbay/>

Guatemalan Peasants Sue Canadian Mining Company Hudbay

By [Laura Lynch](#) · November 30, 2012 · [Post a comment](#)



Rosa Elbira (Photo: [chocversushudbay.com](#))

A small group of Guatemalans from remote villages has made a long trek to Toronto in search of justice. Five of them are suing a Canadian mining company.

They all claim Hudbay Minerals is liable for violence that left one man dead, another in a wheelchair and a group of women victims of gang rapes.

The company denies it is to blame.

After traveling for two days from their tiny villages, four Guatemalan women and one man arrived this week in Toronto. Their sandals suggested they were not prepared to face Toronto's subzero temperatures.

But Angelica Choc said she's ready to face those she blames for the death of her husband.

"When the plane landed I had a very sad feeling remembering him," she said, "but I am here to find justice."

Adolfo Ich was shot to death in 2009. He was a community leader fighting efforts to evict villagers from their land. Through tears, Choc recalls the moment her son broke the news.

"Mama," she remembered him saying as he knelt before her. "They've killed my father."

In court documents, Choc and the others claim security officers employed by Hudbay's Guatemalan subsidiary are responsible for the violence. But they claim Hudbay is liable because it knew the officers weren't licensed, were poorly trained and carried illegal weapons.

The company denies that and says it respects and protects human rights.

At San Lorenzo church in north Toronto, the mainly Latino congregation's songs of praise carry a distinctive rhythm. Today, the worshipers are welcoming the Guatemalans who have come to share their stories.

Rosa Elbira slumped in her chair, choking back tears as she recounted the day in 2007 when she said she was repeatedly raped by nine men. Among them, she claimed, were police, soldiers and security officers for a mining company. Beside her, holding her hand in support, sat 23-year-old German Chub Choc.

He's paralyzed from the waist down, a bullet still lodged near his spine. He admitted to moments of despair since the day in 2009 when he said he was shot by the head of the mining company's security detail.

"Look at me," he said, pointing to his wheelchair. "Look at what I've become."

HudBay argues the claims won't hold up in a Canadian court. But its lawyers are trying to stop the case from even getting that far, arguing any case should be tried in Guatemala.

But the lawyer for the Guatemalans, Murray Klippenstein, said that's unrealistic.

"Many organizations note the Guatemalan legal system is basically corrupt, it's open to the intimidation and threatening of witnesses – you basically can't get justice in Guatemala," Klippenstein said.

Audrey Macklin, a professor at the University of Toronto law school, said the Guatemalans are facing significant but not insurmountable hurdles.

"Canadian judges have traditionally been reluctant to hear these kinds of cases, even when the plaintiffs argue that the justice system in their own nations are corrupt or ineffective," she said.

American courts have also faced many cases involving multinational companies operating abroad. They've been more willing to let the plaintiffs be heard.

Retired Supreme Court of Canada justice Ian Binnie isn't familiar with this case. But he said the time may be coming to rethink the issue in Canada.

"Eventually, the courts are going to have to face up to the fact that in any responsible legal system people have a right to a day in court. And if the only court available is in Canada then that's where the problem should be faced," Binnie said.

Taking comfort among those supporting them at the church, the Guatemalans know they've got a long hard fight ahead of them.

But they insist their only route to justice for what they claim happened in their villages – is through a Canadian courtroom.

Canadian mining company in Toronto court over killings of mine protesters in Guatemala

<http://www.canadahaitiaction.ca/content/canadian-mining-company-toronto-court-over-killings-mine-protesters-guatemala>

DEFENDING DISSENT
WHEN LAND AND LIFE ARE IN PERIL
TUESDAY, MARCH 5 ARTS COURT THEATRE
7PM – 9PM 2 DALY STREET, OTTAWA
ADMISSION BY DONATION

featuring ALUNA THEATRE'S
The Last Walk of Adolfo Ich
PERFORMANCE BASED ON STATEMENTS, INTERVIEWS, GOVERNMENT AND PUBLIC WEBSITES ABOUT MURDER OF MAYAN COMMUNITY LEADER IN CONTEXT OF CANADIAN MINING CONFLICT
Devised and Directed by MARION DE VRIES
Commissioned and Produced by ALUNA THEATRE, Toronto, ON
BEATRIZ PIZANO, Artistic Director & TREVOR SCHWELBORN, Artistic Producer

FOLLOWED BY
The Criminalization of Dissent
DISCUSSION WITH GUATEMALAN AND LOCAL GUEST SPEAKERS
With + LOLITA CHAVEZ, Guatemalan Indigenous Women's Association
"Voice of Resistance", K'iches Peoples Council and Western Peoples' Committee
+ ANTONIO CATALÁN, Guatemalan Human Rights Defenders Unit (UDEFEQUA) With participation from KAIROS, Canadian Ecological Justice Initiative, International Civil Liberties Monitoring Group (ICLMG) and MiningWatch Canada

Logos: Aluna Theatre, Nobel Women's Initiative, MiningWatch Canada / Mines Alerte, Social Justice Fund, Fonds de justice sociale, American Policy Group, KAIROS, MIMundo.org

FOR MORE INFORMATION: DEFENDDISSENTTOUR.WORDPRESS.COM • WE.DEFEND.DISSENT@GMAIL.COM

Lawyers clash over Hudbay case over alleged violence at Guatemalan mine

By Jeff Gray, law reporter, *The Globe and Mail*, March 6, 2013

As the widow of a slain Mayan community leader looked on, lawyers clashed in a Toronto courtroom on Tuesday over whether a Canadian mining company, HudBay Minerals Inc., can be held liable for alleged violence at a Guatemalan mine owned by a subsidiary.

Lawyers for HudBay, who are trying to have the case tossed out, say allowing it to proceed would "wreak havoc" with the well-established corporate law principle that parent companies

are not liable for the actions of their subsidiaries. They also claim it would encourage “meritless” cases against other mining companies. “They are trying to change the law,” HudBay lawyer Robert Harrison told court Tuesday on the second day of a two-day hearing on the firm’s motions to have the case thrown out.

Lawyers for the plaintiffs, and Amnesty International Canada, which intervened in the case, denied their arguments are radical. They argued that HudBay itself can be held liable for alleged negligence in the case, alleging the company’s executives made key decisions “on the ground” for its subsidiary about its security guards, relations with nearby indigenous people, and the “forced evictions” of Mayan protesters who claim the mine’s land as their own.

The judge, Madam Justice Carole Brown of the Ontario Superior Court, reserved her decision.

HudBay is facing three lawsuits grouped together demanding tens of millions of dollars in damages after clashes between protesters and security forces at the Fenix nickel mine in 2007 and 2009. The allegations have not been proven. HudBay has [since sold the mine](#) [in 2011, to the Russian-owned Solway Group].

In one case, a local Mayan community leader who spoke out against the mine, Adolfo Ich Chaman, was allegedly snatched by mine security guards and beaten, hacked with a machete and shot in the neck and killed. Another man was shot and is now in a wheelchair. And 11 women were allegedly gang raped by men in mine security uniforms.

HudBay has denied all the allegations, and posted its own version of events on its website that blames protesters for some of the violence. The former head of security for the mine was arrested last year in connection with the killing.

The dead man’s widow, Angelica Choc, a 47-year-old mother of five who flew to Toronto for the hearing, had a translator who whispered the arguments in her ear during the proceedings. “I have come a long way, but I have come here because of the things that happened to us. We’ve come in search of justice,” Ms. Choc said in an interview through a translator.

The hearing comes after a series of similar allegations against Canadian mining firms in recent years. It also comes amid increased attention to corporate social responsibility in the industry. No similar lawsuit has made it past the preliminary stages.

One of the plaintiffs’ lawyers, Cory Wanless, told the court HudBay knew the mine’s security forces were unlicensed and armed with unlicensed firearms – including 34 shotguns – and were hired without a written contract. Mr. Wanless argued the risks posed by the mine’s security were foreseeable: “HudBay sent untrained, unsupervised men with guns ... into a land conflict ... They did this in a country where, unfortunately, violence is not the exception, it’s the norm.”

But Mr. Harrison argued that the very allegations suggest HudBay could not have foreseen what happened, since the alleged killing, shooting and gang rapes were deliberate acts and not the result of merely “nervous guards.”

See latest update: <http://rightsaction.org/action-content/breakthrough-regarding-legal-liability-canadian-mining-corporations-abuses-overseas>