

Countering the spin: Hudbay's "facts" about its operations in Guatemala

In 2007 and 2009, mining security personnel committed severe human rights abuses at Hudbay's former mining project in Guatemala including the gang rape of Rosa Elbira Ich Choc, Margarita Caal Caal and 9 other Mayan women,¹ the killing of Adolfo Ich, and the shooting and paralyzing of German Chub. These incidents are the subject of three related lawsuits filed in Ontario Superior Court against Hudbay Minerals.

To date, Hudbay has publicly responded to these very serious accusations as if they were an embarrassing public relations problem, instead of as human rights violations that have had a devastating impact on the lives of others. In particular [Hudbay has recently posted on its website a page highlighting what it calls "facts" about its operations in Guatemala](#). This "fact page" shows a complete lack of respect for the victims and severely distorts the truth.

Here's why you should think twice about what HudBay says:

1. Hudbay says that the survivors of rape are lying about being raped

Rosa Elbira, Margarita Caal Caal, and 9 other women say that on January 17, 2007 they were gang-raped by mine company security personnel, police and soldiers during a forced eviction of a Mayan community. The eviction was initiated by Skye Resources, a Canadian mining company that has since merged with Hudbay Minerals.

Despite the testimony of these 11 women, Hudbay states that "Hudbay does not believe the allegation that sexual assaults occurred during these evictions is credible"

Decide for yourself - [watch this video](#) of Rosa Elbira explaining what happened. Do you think she is "not credible"?

As Rosa testifies in a formal sworn court document:

"I was assaulted and raped by approximately nine men, including mine company security personnel, during the forced removal of my community from our ancestral lands. . . . I was in my house when nine men barged in They smashed everything that they found in my house, all of my bowls and my cooking utensils. Then the men threw me on the ground and ripped off my clothes. They covered my mouth and held me down. I thought

¹ The rapes occurred when Canadian company Skye Resources controlled and managed the mining project. Skye Resources has since merged with Hudbay Minerals to form one company.

only one of them would rape me, but instead all nine of them raped me, one after the other, on the floor of my home. They were very rough and violent and it hurt a lot. They hurt me very badly. When they left, I was in deep pain. There was blood all over my skirt. I could not get up."

Do you think Rosa is lying?

Hudbay bases its "belief" that the plaintiffs are lying on shaky ground: a) the survivors of rape did not make complaints police after being raped; and b) a police report on the eviction fail to mention that the rapes occurred. Given that police are alleged to have been full participants in the rapes, it is not surprising that the survivors did not go to police to make a formal complaint, nor is it surprising that the police failed to mention the rapes in their report. These "facts" certainly do not suggest that the rapes did not happen.

According to the [US Department of State in its 2011 report on Human Rights Practices in Guatemala](#): "[r]ape and other sexual offences remained serious problems [in Guatemala] . . . victims [of sexual assault] frequently did not report crimes due to lack of confidence in the justice system and fear of reprisals." This report also states that there were "credible reports" that police had committed rape and that "[p]olice impunity for criminal activity remained a serious problem".

2. Hudbay says that on September 27, 2009, "security and other personnel [at Hudbay's mine] showed extraordinary restraint and acted only in self defence" and further, their "measured response. . . helped to prevent a further escalation of violence thus limiting the number of injuries on both sides of the confrontation"

On September 27, 2009, there were a series of community protests in response to fears of forced evictions of Mayan communities. **Mine security personnel reacted to the protests in a violent and heavy handed manner**, including by shooting 9 community members with shotguns and hand guns. **The youngest victim was 15.**

On the same day, according to eyewitnesses, **community leader Adolfo Ich was hacked with machetes and shot in the head by the chief of mine security, Mynor Padilla**, in an unprovoked attack that happened apart from the protests. **The chief of security for the mine, Mynor Padilla, was charged with murder for the slaying of Adolfo, was [listed as a "Wanted Person" by Interpol](#), and remained a fugitive from justice for almost three years.** He was arrested in Guatemala on September 25, 2012.

Mr. Ich's son, Jose Ich, was with Adolfo Ich on September 27, and describes what happened in a formal sworn court document:

*"[A] few security personnel, including Mr. Padilla, came through a break in the fence and approached my father. . . . **The security personnel forced my father to go with them, and led him back through the break in the fence. . . . They were pushing him with their shotguns.***

*On the other side of the fence the situation became much tenser. Approximately 10 or 15 security personnel surrounded my father, and continued to lead him away. . . . **My father began to resist. He didn't want to go with the security personnel, so they started to hit him with their guns.** My father raised his arm to defend himself, and one of the security personnel struck my father in the arm with a machete. **The machete blow almost cut my father's right arm off. Mr. Padilla then shot my father in the head, and he fell to the ground I could see that he was dead."***



Adolfo Ich, shortly after being shot

On the same day, German Chub was watching a soccer game when security personnel arrived. **German was shot by Mynor Padilla in another unprovoked attack** as he tried to get away. Mynor Padilla is also facing attempted murder charges for the shooting of German.

German describes what happened to him in a formal sworn court document:



German's X-ray: the bullet is still lodged in his chest

*"Suddenly, I heard gunshots, and I saw men in [mine company] uniforms about 50 metres away shooting their guns. I saw Mynor Padilla walk in my direction. When he was a few metres away, I watched Mr. Padilla draw his gun and aim it directly at me. I was very scared. I tried to run away. **As I was turning, Mr. Padilla shot me. I heard a single gun shot and felt the bullet hit my left side** When I regained consciousness, I was lying face down on the ground, coughing up blood. . . . **I thought I was going to die.** I have suffered devastating and permanent injuries*

*because of the shooting. **The bullet badly damaged my spinal cord, so I am now a paraplegic. . . . The bullet also punctured and collapsed my left lung. My left lung no longer works."***

In addition to Adolfo and German, Guatemalan authorities confirmed that seven other community members suffered gun wounds that day. For its part, Hudbay says that five of its security personnel were hurt. Yet of these, only one security member required medical treatment, and that for a hand injury.

Does this sound like a “measured” response to you?

3. Hudbay says that that the land dispute stems from “invaders” and “squatters” who are engaged in “illegal land occupations”

In reality, Hudbay has **completely ignored the Mayan community’s valid legal and moral claims to the land** and instead dismissed the Mayan Q’eqchi’ as “illegal invaders” and “squatters” and dealt with the communities in **confrontational and violent manner**.

Here are some things you should know about the ongoing land conflict:

- **The disputed land is without question the traditional and ancestral land of the Mayan Q’eqchi’.**
- **Hudbay has never acknowledged, publicly or otherwise, the deeply troubling origins of Hudbay’s legal rights to the mine.** Mining companies received “rights” to the land during the Guatemalan Civil War, a time when the Guatemalan state was waging unprecedented violence against the Mayan people including by ruthlessly razing and massacring Mayan villages and driving Mayans from their land. During this period, over 200,000 Guatemalans were killed, and over 1 million were driven from their homes and communities, the vast majority of them Mayan civilians.
- **The legal status of the land remains in question.** In 2006, the International Labour Organization, a branch of the United Nations, held that Guatemala broke binding international law by failing to engage in prior consultation with the Mayan Q’eqchi’ communities before granting a new mining concession for the Hudbay’s mining project. [Read the official ILO report.](#)
- In 2011, the Constitutional Court of Guatemala held that **property rights to part of the land of the mining project legally belonged to the Mayan Q’eqchi’ community of Agua Caliente.** This ruling was cynically ignored by both the Guatemalan government and Hudbay. The community is now pursuing its claim before the Inter-American Court of Human Rights. [Read about the judgment.](#)

Who are the real “invaders”? The Mayans, or Hudbay?

4. Hudbay says it treats local communities “fairly and with dignity”

In reality, HudBay denies the core identity of Mayan communities by questioning their “indigenusness”.

Both publicly and in legal documents, **Hudbay has continuously questioned the indigenous identity of the Mayan Q’eqchi’ plaintiffs by dismissively referring to them as “individuals who self-identify as ‘indigenous’ peoples”** in an attempt to **deny the core identity of our clients and their communities**. All of the plaintiffs are proud to be Mayan Q’eqchi’. They speak Q’eqchi’, hold traditional beliefs, wear traditional dress, and maintain a deep connection to their historical and ancestral land. As Angelica Choc says:

“our Q’eqchi’ communities are part of an ancient people. [W]e retain our own customs, traditions and values from the time before our grandfathers and grandmothers.” Their status as indigenous peoples is fundamental to the dispute and to their legal claims to land.

Does this sound like “fair and dignified treatment” to you?

5. Hudbay says that it “takes its role as a corporate citizen seriously and respects and protects human rights wherever Hudbay operates.”

Until 2011, however, **Hudbay did not have any human rights policy whatsoever**. To this day, [Hudbay’s human rights policy](#) is **embarrassingly superficial**, is only a page and a half long and includes vague and evasive statements like “While the issue of human rights is most often dealt with by, and is primarily the responsibility of, the nations of the world, Hudbay understands that the issue of human rights can also be impacted by the way businesses conduct themselves”. It remains to be seen if Hudbay can convert its words regarding human rights into an actual demonstration of concern for human rights in the communities where it works.

Is this the sort of “corporate citizen” we want in Canada?

6. Hudbay does not acknowledge the extreme risks of being a court witness in Guatemala

Hudbay attempts to draw attention to the fact that some of the witnesses in the Guatemalan criminal investigation who originally testified under oath have since decided to retract their statements. Hudbay does not mention that **Guatemala is one of the most dangerous countries in the world in which to be a court witness**. As noted by the [United States Department of State](#), **witnesses are routinely intimidated, targeted with threats and assaults, and sometimes killed**. Guatemala’s authorities have been powerless to grant witnesses even basic protection. Indeed, the danger of being a witness is a prime reason that [99.75% of violent crime goes unpunished in Guatemala](#), and that murder convictions are so rare.

Hudbay’s failure to acknowledge the well-known and extreme risks faced by court witnesses in Guatemala is unfair and deeply misleading. Indeed, the danger faced by witnesses is a key reason why this litigation should proceed in Canada, where risks faced by witnesses are substantially reduced.

7. Hudbay says that its former subsidiary, CGN, has been “cooperating [with Guatemalan authorities] to ensure that all the facts are uncovered and justice is served.”

It is not clear how, exactly, CGN or Hudbay is “cooperating” with authorities.

In December 2009, Guatemalan authorities issued a warrant for the arrest of CGN's chief of security, Mynor Padilla, for the crimes of murder and attempted murder in the shooting of Adolfo Ich and German Chub. Despite the outstanding arrest warrant and the very serious charges, **Hudbay confirmed that its subsidiary continued to employ and pay Mr. Padilla for at least a year after the slaying while Mr. Padilla was a fugitive from justice.** Mr. Padilla was finally arrested almost three years after the slaying, in September 2012. It appears that neither Hudbay nor its subsidiary took appropriate steps to ensure the arrest of Mr. Padilla so that he could stand trial for murder and attempted murder.