

saturdayreport



A Mayan woman cries while recounting the forced eviction of her home in Lote Ocho, right.
Below, women of Lote Ocho raise their hands, after a translator asks who was raped during alleged forced evictions in Lote Ocho.
The allegations, detailed in a statement of claim filed in an Ontario court, have yet to be proven in court.
Submitted

UNBC students, prof at leading edge of human-rights lawsuit

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A precedent-setting lawsuit launched by 11 Guatemalan women against Canadian mining company HudBay Minerals and its subsidiaries alleging rape, beatings and forced evictions has a UNBC connection.

On Monday Toronto lawyer Murray Klippenstein filed a lawsuit in Ontario court seeking \$55 million in damages on behalf of 11 women, of the indigenous Mayan Q'eqchi' community of Lote Ocho.

The case was first brought to light by a UNBC class on a field study in the country.

"On Jan. 17, 2007, at the request of Canadian mining company HMI Nickel Inc., hundreds of mine security personnel, police and military forcibly expelled members of the remote indigenous Mayan community of Lote Ocho from land that community members consider to be their ancestral home in eastern Guatemala," the statement of claim says.

"During these armed evictions, 11 Mayan Q'eqchi' women were gang-raped by police, military and mine security personnel. The mine security personnel who committed the rapes were deployed at HMI Nickel's Fenix mining project, and were under the control and direction of HMI Nickel."

All of the allegations in the statement of claim have yet to be proven in court.

"Each family was offered 300 quetzales, about \$40 Canadian, to leave," student Miranda Seymour said. "[Then] they were sprayed with tear gas and rubber bullets."

Student Claudette Bois said they were told 65 houses were "chained to the ground and burned."

The men had left the village, believing the security and police would not attack unarmed women, Bois said.

According to the statement of claim filed in Ontario, Rosa Elbira Coc Ich was sexually assaulted by nine men, including several uniformed Fenix security personnel.

"At first, a police officer drew a pistol and put it to her head and asked her where her husband was. When she was unable to tell him, he said he was going to kill her," the statement alleges. "Because of injuries sustained from the gang rape, Ms. Coc is no longer able to have children."

UNBC geography professor Catherine Nolin and eight students from Prince George traveled to Guatemala in May, 2010 for a geography field study in partnership with Rights Action – a Canadian human rights organization.

On May 19, 2010 Nolin and her students met with women in Lote Ocho and conducted a series of interviews in which the women told them about the alleged rapes.

The violence started on Jan. 8, 2007, according to the statement of claim. Compañía Guatemalteca de Niquel SA (CGN) security, police and military arrived at Lote Ocho in trucks to evict the residents – which in a press release HudBay calls "illegal squatters."

In 2006, the United Nations ruled that Guatemala had violated international law by granting the mining permit to Skye Resources without consulting the Maya Q'eqchi' However, according to the statement of claim, no action was taken by either the company or Guatemalan government.

Dozens of houses were burned, goods stolen from residents and guns fired, the statement of claim says. Residents returned the next day to try and rebuild their homes and salvage their crops, it added.

On Jan. 17, 2007 the security teams, police and military returned to finish the job, according to the statement of claim.

In a presentation at UNBC on Feb 24, the students spoke about their experience meeting the women.

"We left that meeting with so little we wanted to scream," Nolin said.

And on July 5, 2010 they submitted a human rights complaint to the office of Canadian Minister of Foreign Affairs Lawrence Cannon.

In an e-mailed response, a Foreign Affairs Canada spokesperson said the government "encourages and expects," Canadian companies working abroad to follow local and international laws.

"The Government of Guatemala, as a sovereign government, has the responsibility to establish and enforce domestic law in its territory and to ensure that human rights are respected," the spokesperson wrote. "Canada continues to encourage the Guatemalan government to ensure a climate of respect for human rights and security for all its citizens. Canada continues to underscore with Guatemalan officials the importance of investigating allegations of human rights violations and pursuing them fully through the justice system."

Guatemalan environmentalist and human rights advocate Magali Rey Rosa said the response by Foreign Affairs Canada, "makes me want to cry."

"First off... the indigenous people have been purposely excluded," Rey Rosa said. "Our justice system does not work. Our institutions are weak."

Community-organized referendums called, "consultas" have

been held in communities throughout Guatemala, she said. In those consultas communities have voiced overwhelming opposition to mining and hydroelectric projects in the country, she said.

In a February, 2007 report to the United Nations Philip Aston – special reporter on extrajudicial, summary or arbitrary executions – found only 1.4 per cent of murders in the country in 2005 resulted in a conviction.

A second UN report in February, 2009 cited "a general climate of impunity" in the country and that only four per cent of crimes ended up before the courts.

In 2005 the International Commission of Jurists reported, "The independence and impartiality of the judiciary is severely threatened by an increasing politicizing of the justice system," in Guatemala.

Judges and prosecutors in the country are subjected to political interference, threats and intimidation, the report added.

In January 2011 Human Rights Watch reported that impunity and lack of accountability for human rights violations are the norm.

Wealthy multinational companies can buy a lot of government cooperation in Guatemala, Rey Rosa said.

"Our politicians are cheap," she said. "It is not really the government, it's the government officials that see their futures in operating the mining company."

Until the lawsuit launched on Monday, the issue had drawn little interest in Canada.

Lawyer Murray Klippenstein said if the women's case is successful, it would be a first in Canadian law.

"There is no direct precedent [for the lawsuit], but there has already been a few cases regarding Canadian companies abroad," Klippenstein said.

Klippenstein's firm is working pro bono on the case, but is accepting donations toward the cost of the case. The firm is also bringing a second lawsuit against HudBay on behalf of the widow of a

Adolfo Ich Chamán – a Mayan Q'eqchi' opposed to the Fenix Nickel Project. In that statement of claim, Angelica Choc claims her husband was shot to death on Sept. 27, 2009 during a protest against the mining project.

In the statement of claim, witnesses identified Mynor Padilla – the head of security at Fenix – as the shooter. Before he was shot, Chamán was hacked by a machete.

According to the statement of claim, CGN employs security staff who previously served with military and paramilitary groups during the civil war.

No arrests have been made by Guatemalan authorities for either the rapes or murder of Chamán, according to the statements of claim.

HMI Nickel is a wholly-owned subsidiary of HudBay Minerals. In 2007 it was an independent, Vancouver-based mining company called Skye Resources Inc.

HudBay Minerals bought out Skye Resources and converted it to the wholly-owned subsidiary, now known as HMI Nickel, on Aug. 26, 2008. Former Skye Minerals CEO Colin Bremner joined HudBay as a director and Skye Minerals CEO David Byson became a vice president and CFO of HudBay.

Through the Guatemalan company CGN – of which HMI Nickel owns 98.2 per cent and the Guatemalan government 1.8 per cent – HudBay Minerals holds a 25-year renewable exploitation license and exploration license to the Fenix Nickel Project.

Skye Minerals bought CGN in 2004, which was then known as EXMIBAL.

The Fenix Nickel Project includes 41.4 million tonnes of nickel reserves over a 248 square kilometre area in eastern Guatemala near El Estor.

The Fenix Nickel Project consists of an open-pit mine, processing plant, power plant and mineral rights to 248 sq. km of nickel deposits.

Canadian mining company Inco, now called Vale, started construction of the mine in 1965 and operated it from 1977 to 1980 when low nickel prices shut it down. At the time of the mine was in operation the Government of Guatemala owned 30 per cent of the project, that since has been negotiated down to 1.8 per cent.

According to the statement of claim, several Mayan Q'eqchi' communities resettled and began farming on areas of the defunct mine following the 1980s. The

Mayan claim HudBay and its subsidiaries have no legal claim to the land, which was granted to Inco by the Guatemalan military dictatorship during the bloody

Guatemalan Civil War.

During the civil war, which lasted from 1960 to 1996, Guatemala's indigenous populations were brutally oppressed, murdered and driven off their traditional lands. Archeological excavations of mass grave sites continue to try to piece together the remains of those

"disappeared" during the civil war.



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