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UPDATED HUMAN RIGHTS VIOLATION COMPLAINT SUBMITTED TO THE CANADIAN GOVERNMENT:

CANADIAN NICKEL MINING COMPANIES INVOLVED IN VIOLENT, ILLEGAL FORCED EVICTIONS OF MAYAN-Q'EQCHI' COMMUNITIES, GANG RAPE OF WOMEN VILLAGERS & ASSASSINATION OF COMMUNITY LEADER



(Mayan-Q'eqchi' women of Lote 8 & La Paz communities, El Estor, Izabal. The 12 women of Lote 8 were gang-raped by Guatemalan soldiers, police and private security guards hired by the Guatemala Nickel Company, wholly owned subsidiary of then Skye Resources, now HudBay Minerals. Photo: James Rodriguez, www.mimundo.org, August 2010)

To:

Mr. Lawrence Cannon
Minister of Foreign Affairs
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& other government officials and politicians

To: the Canada Pension Plan and other investors

To: HudBay Minerals & CGN (Guatemala Nickel Company)

From:

Grahame Russell, co-director, Rights Action, info@rightsaction.org, 860-352-2448, www.rightsaction.org, Dr. Catherine Nolin, Associate Professor of Geography, University of Northern British Columbia, nolin@unbc.ca, (250) 961-5875, & the undersigned

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TO ALL CONCERNED PARTIES,

On behalf of the University of Northern British Columbia's Guatemala Delegation & Rights Action, we submit this updated human rights violation complaint to the Canadian Government.

As you know, we submitted earlier versions of this complaint to Mr. Lawrence Cannon, other government representatives and politicians, and investors. To date we have not received a reply from anyone, except (October 13) from Mr. Cannon, who sent us a letter that responds to almost none of the points we raise in this complaint.

The violations we have investigated and reported on have not been addressed or remedied. The underlying issues that led to this nickel-mining related repression have not been addressed and the harmed Mayan Q'eqchi' (Kek-chi, phonetically) communities may suffer more repression in the future, at the behest of Canadian (and other) nickel mining companies.

A CANADIAN GOVERNMENT REQUEST FOR COMPLAINTS

In May 2008, after a previous delegation of UNBC students (and their professor Dr. Catherine Nolin) and Rights Action visited the nickel mining harmed communities of El Estor, the UNBC delegation met with then Ambassador Kenneth Cook in the Canadian Embassy. At that meeting, the delegation informed him – and other staffers – of serious violations that Mayan Q'eqchi' communities of El Estor had recently suffered at the behest of Skye Resources and CGN (Guatemala Nickel Company, subsidiary of Skye Resources).

Ambassador Cook told the UNBC delegation that the Canadian government – via the Embassy in Guatemala -- was "open to receiving human rights complaints related to Canadian mining in Guatemala," though they had never received one.

A CANADIAN PROBLEM: NICKEL MINING & FORCED EVICTIONS, GANG RAPE & ASSASSINATION

As Canadian citizens, we demand the immediate attention of the Canadian government. This is a Canadian problem.

All of the major decisions affecting this mining operation are taken by then Skye Resources, now HudBay Minerals, in Canada. Canadian shareholders and investors (including the Canada Pension Plan) benefit from this and many similar mining operations. Additionally, the Canadian government is promoting, as policy, a largely unfettered expansion of Canadian mining companies in Guatemala.

THE VIOLATIONS

Over the past few years, UNBC's Dr. Catherine Nolin has organized a number of delegations to visit, along with Rights Action, the mining affected communities of El Estor. These commitments include two more visits in May and August of 2010.

We have visited the mining affected communities of La Unión, La Revolución, Lote 8, La Paz and Lote 9. We have received testimonies from eye-witnesses to, and victims of, the forced evictions; eye-witnesses to, and

victims of, gang rapes; we have spoken with eye-witnesses (including family members) to the assassination of community leader and teacher Adolfo Ich.



(Adolfo Ich – center – was assassinated September 27, 2009, by private security guards hired by the Guatemala Nickel Company, wholly owned subsidiary of HudBay Minerals. Photo: James Rodriguez, www.mimundo.org)

THE VIOLATORS

These human rights violations were committed by the Guatemalan army and police, and private security guards employed by Skye Resources and HudBay Minerals via their Guatemalan subsidiary company - CGN.

LOTE 8

An example: One of the most attacked and harmed communities is that of Lote 8, an isolated Mayan Q'eqchi' community on the mountain ridge north of El Estor (where much of the nickel ore is apparently located). After hiking into the Lote 8 community in May 2010, and meeting with community members elsewhere in El Estor (in August 2010), the UNBC delegation and Rights Action received substantial testimonies from the community members. The community members told us that these testimonies were one of the first public recounting of their shared experiences:

January 9th 2007: Hundreds of police, soldiers and Skye Resources/CGN private security agents arrived in at least 80 police pickup trucks, 2 army trucks and 3 nickel company trucks. They arrived with the intent of illegally and forcibly evicting the inhabitants. Community members were given 5 minutes to retrieve belongings from their small homes; they were offered 300 Quetzales to destroy their own homes.

Upon the community's peaceful refusal, the police, soldiers and private security forces started shooting teargas; they robbed the villager's homes and then set them on fire with gasoline. In total, 100 small homes were destroyed. The villagers — from grandparents to newborns — were forced to flee into the forests. All of their belongings, including clothes, bedding, food, cooking implements, etc, were either destroyed or stolen.

With absolutely nowhere to go, the 100 families of Lote 8 spent the next week re-building minimal shelter, attaching plastic sheeting to poles (for shelter), while scrounging for food and trying to recover some of the subsistence crops.

During this week, Skye Resources/CGN helicopters regularly flew over their remote community.

January 17th 2007: Hundreds of police, soldiers and private security agents returned to Lote 8 to again illegally and forcibly evict the community, this time while male residents were away from the community. They carried out the same plan of destruction as on January 9th.

Moreover, police, soldiers and Skye Resources/CGN private security guards gang-raped 12 female community members. At least two of the victims were pregnant at the time, and lost their babies due to the rapes. Another victim, a newlywed, has been told that she can not have children due to the violent rape.

(In an earlier version of this Complaint, we referred to a smaller number of women. Based on our August 2010 visit, we now have testimony that 12 women were raped, who also described to us their fear of coming forward, publicly.)

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In 2008, soon after the execution of these illegal and brutal evictions and gang rapes, Skye Resources sold its nickel mining interests (including CGN) to HudBay Minerals.

ASSASSINATION OF ADOLFO ICH

On September 27, 2009, well-known Mayan Q'eqchi' community leader and teacher Adolfo Ich was captured and then killed by CGN (now owned by HudBay Minerals) security guards under the direct orders chief of CGN security forces Mynor Padilla. This event took place in the community of La Unión, in the town of El Estor. Under orders of Mynor Padilla, heavily armed security guards came on the La Unión property, grabbed Adolfo Ich in front of other villagers, and took him back onto adjacent company properties – firing live rounds at community members who tried to follow them. A couple of hours later, after all the security guards were ordered to leave the premises, family and community members found Adolfo Ich dead inside CGN company buildings, with bullet wounds and machete cuts.

DEEPLY ENTRENCHED IMPUNITY

Because of Guatemala's deeply entrenched and well-documented impunity for the government and powerful sectors, no criminal legal proceedings were even initiated for these illegal forced evictions and gang rapes. A capture order is out for HudBay/CGN security forces chief Mynor Padilla, though that order has not been acted upon. Mr. Padilla is often seen in the El Estor region driving in HudBay/CGN vehicles and on CGN property.

Not surprisingly, HudBay Minerals/CGN deny all of the above.

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The UNBC group and Rights Action have photographic, video and audio testimonies of all of the violations and repression summarized above.

Though we concentrated our recent efforts on the most remote community of Lote 8 and the killing of Adolfo Ich, similar serious charges — including rape — have been made against the police, army, and CGN private security guards that were carrying out violent and illegal forced evictions in at least four other nearby communities in 2006 and early 2007.

As Canadian citizens, we demand concrete actions from the Canadian Government:

- That the Canadian Government carry out a full and impartial investigation into these allegations;
- That the Canadian Government notify the appropriate Guatemalan authorities of these extremely serious charges and of the Canadian Government's investigation;
- That, with the community's consent, international accompaniers are provided to ensure that the mining affected communities are not subject to retribution for making these accusations and claims;

- That the findings of the Canadian government's investigation be made known publicly;
- That the investigation provide a complete summary of the human rights violations and property destruction and loss suffered by the Lote 8 community, as well as the other five Mayan Q'eqchi' communities that suffered similar illegal and forced evictions around the same time;
- That the investigation provide conclusions and recommendations with respect to the actions and/or omissions of the Governments of Guatemala and Canada, and the Guatemalan security forces, and with respect to Skye Resources (now HudBay Minerals) and the company's security forces; and
- That the investigation set out what reparations and compensation ought to be paid and made to the victims.

We believe the Canadian Government must carry out this investigation, based on the facts that:

1. the very authorities responsible for ensuring justice and security in Guatemala – the police and the military – were the perpetrators, along with CGN private security guards;
2. that the owners of the Guatemalan Nickel Company — then Skye Resources, now HudBay Minerals — are Canadian companies; and
3. that the Canadian government is playing a proactive role in supporting the expansion of Canadian companies into Guatemala.

We insist that this human rights violation complaint be taken seriously and trust the Canadian Government will take every means necessary to ensure that the perpetrators of these human rights violations be prosecuted to the fullest extent of the law, and that full reparations and compensation be made to the victims of these crimes.

We look forward to hearing back from you about this serious human rights matter. We have extensive knowledge about the violations and harms caused by nickel mining interests in the El Estor region and look forward to sharing it with you.

Sincerely,

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