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Public letter

Why did a Swiss academic publisher, after an initial very positive response, abruptly refuse to publish “Canadian Mining in the Aftermath of Genocides in Guatemala: The Violence, Corruption, and Impunity of Contemporary Predatory Mineral Exploitation”? The publisher ultimately said it was the threat of a third party suing for defamation but then refused to specify what it alleged was defamatory or identify the third party. Was it corporate intimidation that caused Springer to make unsubstantiated accusations, and impede the authors’ freedom of expression?

Springer Nature  
Van Godewijkstraat 30  
3311 GX Dordrecht, The Netherlands  
P.O. Box 17  
3300 AA Dordrecht, The Netherlands

Dr. Robert K. Doe  
Executive Publishing Editor  
Earth Sciences, Geography and Environment  
[robert.doe@springernature.com](mailto:robert.doe@springernature.com)

Juliana Pitanguy  
Publishing Editor, Latin American Studies  
Springer Dordrecht  
[Juliana.pitanguy@springernature.com](mailto:Juliana.pitanguy@springernature.com)

Dr. Andrew Sluyter  
Conference of Latin American Geography,  
Springer Books Series Editorial Board, Chair  
[asluyter@lsu.edu](mailto:asluyter@lsu.edu)

Dr. Michael Steinberg  
Conference of Latin American Geography,  
Executive Director  
[mksteinberg@ua.edu](mailto:mksteinberg@ua.edu)

We write this public letter to raise questions as to why an international academic publisher suddenly refused to proceed with the publication of “Canadian Mining in the Aftermath of Genocides in Guatemala,” a book we co-edited that addresses serious situations of (mainly) Canadian mining company-linked human rights violations, forced evictions, repression, health and environmental harms, and mining-linked corruption and impunity in Guatemala.

**In summary**

Back in April 2017, Springer accepted our book proposal, signed a publishing agreement with us in May 2017, and encouraged us – in discussions with Catherine Nolin - to submit a book manuscript related to these themes and issues.

Leaping ahead, on 20 February 2020, we submitted our final manuscript after three years of field work, collaborations, and hard work of putting the book together with multiple contributors, reviewing and editing the materials, and maintaining full communication with Springer.

Shortly thereafter, Springer's Publishing Editor for the Latin American Studies book series Juliana Pitanguy wrote to us (21 February 2020) with this initial assessment:

*"I just had a look at the manuscript. The topic is very interesting and it is very well written. It will be a successful title. I will send this to Andrew [Sluyter, Springer-CLAG Latin American Studies Book Series Editorial Board Chair] for feedback and get back to you."*

As the Editorial Board Chair, Dr. Sluyter reviewed the proposal and recommended the external reviewers for Springer. Dr. Sluyter also reviewed the final, revised manuscript and recommended that it was of high quality, a great fit with Springer's Latin American Studies book series, and conveyed to Juliana Pitanguy that he looked forward to seeing it go to print.

After completion of all preparatory work, signing author agreements for all contributors, and awaiting the final page proofs, we experienced approximately five months of silence from Springer, even as we wrote regularly asking for feedback and timelines for publication.

Finally, on 17 July 2020, Juliana Pitanguy wrote us to convey that Springer would not be publishing the book and planned to terminate the contract, because:

*"it presents unsubstantiated defamatory content. Changes in language are not sufficient to take away the legal risk and therefore we think it is not publishable. We wish you all the best of luck and will send you a termination contract so that you can publish the work elsewhere."* (email from Juliana Pitanguy, 17 July 2020)

Despite a series of respectful, professional follow-up emails sent immediately on our part, asking for clarification as to what information in the manuscript was "unsubstantiated" and what information was "defamatory," we received no answers to our legitimate questions.

### **"The Third Party"**

On 30 July 2020, we received a short email from our Publishing Editor, Ms. Pitanguy, explaining that Springer could not provide any more information about why they were terminating the agreement, would not communicate with us on the telephone or conference call. Rather, her email message simply conveyed that:

*"...there is a risk we [Springer] could be sued for defamation if the third party files a case."*

As co-editors, we sent follow-up, respectful, professional emails requesting that Springer identify "the third party" and explain why and how "the third party" obtained access to the book manuscript.

Additionally, we requested that Springer clarify which specific information in our manuscript was “unsubstantiated” and “defamatory.” Again, to no avail.

Since this time, we received significant support from the Canadian Association of University Teachers (CAUT). On 20 August 2020, David Robinson, CAUT’s executive director, contacted Springer with a formal letter requesting further information as to why, just as the book was to be published, Springer terminated the contact. Springer has yet to respond to his letter.

CAUT also devoted significant resources to subject the content of our manuscript – the exact version submitted to Springer on 20 February 2020 – to a full ‘libel review’ by Canadian lawyer Peter Jacobsen, a lawyer with over 40 years of experience and who was named “Lawyer of the Year” by Best Lawyers for Defamation and Media Law in 2017.

Peter Jacobsen concluded that the manuscript did not contain a single instance of unsubstantiated, defamatory content that should prevent publication. Other than a few minor tweaks of sentences, out of an abundance of caution, Mr. Jacobsen did not recommend any changes.

And that was that.

We have no financial or legal capacity to challenge Springer’s forced termination of the contract. Furthermore, co-editing and publishing this book was never about money.

We recently signed their forced termination agreement, and are now seeking alternative publishers.

We personally have no demands or asks of Springer. Our business is done with them. However, we have a responsibility to publicize what happened.

### **Re-enforcing impunity and immunity from accountability**

Look at it this way. A major theme addressed in the articles, testimonies and analysis that comprise our book is the endemic corruption and impunity with which the mining companies addressed in the book have, variously, been able to operate in Guatemala, with their Guatemalan economic and political partners.

Instead of providing the public with more information about serious situations of mining company-linked human rights violations, forced evictions, repression, health and environmental harms in Guatemala, Springer Nature, we believe, made unsubstantiated accusations about our work being irredeemably defamatory, inhibited our freedom of expression, and directly re-enforced the corruption and impunity with which mining companies often times operate around the world, as set out in the book manuscript.

### **“The third party” questions**

Might it be one of the companies addressed in the manuscript is the “the third party” and threatened the Swiss academic publisher to quash publication of a book documenting mining company harms, violence and destruction, corruption and impunity?

We believe there are many questions of public interests, but for us the key questions are:

- Who is “the third party” that Springer referred to? Was “the third party” a mining company addressed in the book?
- How and why did “the third party” receive the manuscript to read?
- At minimum, as is customary in the publishing industry, we should have been told what portions of the book Springer alleged contained “*unsubstantiated defamatory content*” and we should have been given the opportunity to address Springer’s concerns.
- What sections of the book did Springer consider contained “*unsubstantiated defamatory content*”? And why does Springer refuse to tell us?

Respectfully,

*Catherine Nolin      Grahame Russell*

Catherine Nolin and Grahame Russell

Dr. Catherine Nolin, Professor and Chair  
Geography Program  
Conference of Latin American Geography (CLAG), Chair  
University of Northern British Columbia (UNBC)  
Traditional and Unceded Territory of the Lheidli T'enneh  
3333 University Way, Prince George, B.C., Canada V2N 4Z9  
<http://www.unbc.ca/catherine-nolin>  
[catherine.nolin@unbc.ca](mailto:catherine.nolin@unbc.ca)

Grahame Russell, Rights Action, Director  
Adjunct Professor, Geography Program, UNBC  
Rights Action  
351 Queen St. E. (Box 552), Toronto ON, M5A-1T8  
<https://rightsaction.org/>  
[grahame@rightsaction.org](mailto:grahame@rightsaction.org)