

Lica. María Consuelo Porras Argueta

Attorney General of Guatemala

via email: fiscalgeneralmp@gmail.com

November 21, 2021

Dear Attorney General Porras:

We join with organizations from around the world to denounce **the state of siege declared by the government of Guatemala and repression carried out by state security forces against the local Maya Q'eqchi' community in El Estor**, Izabal Department, whose residents, since October 4, have been organizing a highway blockade to prevent the passage of machinery on its way to the El Fénix nickel mine, which has been operating illegally since 2005. Police have implemented tactics of intimidation and repression over the past several weeks. Local residents—along with journalists reporting on the protests—have been tear-gassed, beaten and threatened by the excessive number of agents of the National Police and military deployed to the area. They have also been confiscating cellular phones of the residents and journalists to prevent documentation of the events.

These are some of the highlights:

- Oct 22: security forces violently attacked anti-mining protesters, firing tear gas on the public demonstration and into community members' homes. Police used excessive force, including beatings and threats.
- Oct 23: President Giammettei declared a state of siege (approved by Congress two days later), sending more than 800 agents of the National Civilian Police (PNC), the army, the navy, and the air force to the protest zone. Police are enforcing a dusk-to-dawn curfew. Roads in and out of El Estor are controlled by military road-blocks. Lake Izabal is patrolled by naval boats. Drones are flown to monitor neighborhoods and movement of local residents. In ensuing weeks, the PDH (La Procuraduría de Derechos Humanos de Guatemala) reported incidents of indiscriminate force by security forces, resulting in injuries to residents.
- Oct 24: Police raided the radio station Xyaab' Tzuultaq'a, which has been reporting on the demonstrations.
- Oct 27: Police conducted raids on the homes of indigenous rights defenders **Germán Chub** and of **Adolfo Ich Choc**. In 2009, Adolfo Ich Choc's father, Adolfo Ich Chamán, was shot to death by Colonel Mynor Rolando Padilla, the ex-chief of security for Guatemala Nickel Company; Padilla was convicted in January 2021. The same shooting incident left Germán Chub paralyzed. Both victims are members of the Council of Ancestral Authorities Maya Q'eqchi.
- Oct 27: Indigenous organizations and other civil society groups presented a formal complaint to the Constitutional Court that the state of siege violates the country's constitution.
- Oct 31: In its report on the first week of the state of siege, the Convergence for Human Rights related 14 documented raids of the homes of human rights defenders, including journalists **Juan Bautista Xol** and **Carlos Choc**, and the illegal detention of **Eduardo Bin Poou**, a member of the local fisherman's association that opposes the nickel mine.
- Nov 3: Residents of El Estor announced they would begin an indefinite protest (strike) against the state of siege starting Nov 4.

Nov 4: The Inter-American Commission on Human Rights (CIDH) denounced the state of siege.

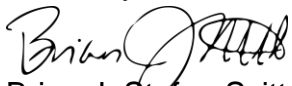
Nov 13: **Pablo Choc** was arrested by military police and imprisoned in Cobán on trumped-up criminal charges. He is the husband of Amalia Cac, one of 13 Mayan Q'eqchi' plaintiffs in the lawsuits in Canada against Hudbay Minerals, for rapes, a killing, and shootings in 2007 and 2009.

The nickel mine is operated by the Guatemalan Nickel Company (CGN), a subsidiary of the Swiss-Russian consortium Solway Investment Group, which purchased the mining operation from the Canadian company HudBay Minerals in 2011. More than 90% of El Estor's 82,500 inhabitants are indigenous Maya Q'eqchi'. For the past 15 years, those impacted indigenous communities have reiterated that the Ministry of Energy and Mines (MEM) did not obtain their free, prior, and informed consent as required by national and international law (ILO Convention 169, the Indigenous and Tribal Peoples Convention of 1989). In its ruling in 2019, the Constitutional Court of Guatemala ratified the right to consultation and resolved that the mining company had to suspend its mining activity in the meantime. The company later carried out a "consultation" but excluded many key actors, including the fishing communities and the local indigenous authorities. The mining operations continue in defiance of the spirit of the court ruling.

The government of Guatemala should rise to its obligation to facilitate the exercise of free and peaceful assembly. We therefore strongly urge that the government of Guatemala:

- end the state of siege and all violence inflicted by police and military against the local communities
- comply with the ruling of the Constitutional Court to cease mining operations until there is a consultation with full participation of the affected communities, as stipulated by ILO Convention 169, which Guatemala ratified in 1996
- instruct the police and other public officials to respect the right of the local Q'eqchi' community to organize opposition to the mining operations
- enter into dialogue with local indigenous authorities to resolve this situation peacefully
- order a suspension of mining activities until this situation is resolved with the local community

Sincerely,



Brian J. Stefan Szittai
Co-coordinators



Christine Stonebraker Martinez

copies: Guillermo Castillo Reyes, Vicepresidente de Guatemala ~ via email
Alberto Pimentel Mata, Minister of Energy and Mines ~ via email
Alfonso José Quiñónez Lemus, Ambassador of Guatemala to the US ~ email, US mail
Augusto Jordán Rodas Andrade, Prosecutor for Human Rights (PDH) ~ via email
IACHR: Esmeralda Arosemena de Troitiño, Rapporteur for Guatemala, Inter-American Commission on Human Rights ~ via email and US mail
OACNUDH: Mika Kanervavuori, Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos en Guatemala (OACNUDH) ~ via email
Solway Investment Group ~ via email
Embassy of Switzerland in the US ~ via email
US State Department: Guatemala Desk Officers in Washington, DC: Bria Mathews, Moises Mendoza ~ via email
US State Department: William Popp, US Ambassador to Guatemala, in care of human rights officer Sarahann Yeh ~ via email
US Senators Brown & Portman ~ via email
US Representatives Beatty, Gibbs, Gonzalez, Johnson, Jordan, Joyce, Kaptur, Latta, Ryan ~ via email

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The following people hereby urge you to take action on this matter as indicated in this letter: