

CASE STUDY #1 by A. Doebeli

FENIX MINE IN EL ESTOR, GUATEMALA, MAYA Q’EQCHI’ TERRITORIES

Root cause analysis and positionality statement

The Fenix mine is an open-pit nickel mine situated in El Estor, Guatemala, on the traditional territories of the Maya Q’eqchi’ peoples. The mine is among the oldest and the largest mines in the country, operating from 1960-1980, and since 2014. The mine has recently expanded in 2018 to allow monthly production to increase from 1,000 to 1,500 tons of nickel (Katowatie, Tatham & Field, 2017; Solway Group, 2018). The Fenix mine has undergone many shifts in corporate ownership, and from 2006-2011 was owned by Canadian mining companies Skye Resources and Hudbay Minerals and their subsidiary Compañía Guatemalteca de Níquel (Russell, 2017). During this time, these corporations tried to revive the mining project but were met with resistance from Q’eqchi’ land defenders generally concerned about the health of their people, lands, crops, and water (Front Line

Defenders, 2017; Russell, 2017). In 2011 the Fenix project was sold to the Solway Group mining company after Hudbay became embroiled in three lawsuits (Caal v. Hudbay, Choc v. Hudbay, Chub v. Hudbay) for violence against Q’eqchi’ land defenders (Russell, 2017). Failing get consent or to acknowledge Q’eqchi’ land claims, in 2006 the Guatemalan government ordered community members to leave their lands without a court order, thereby breaking International Law (Katowatie et al., 2017; Klippensteins, Barristers & Solicitors, 2019). Met with Indigenous resistance, the Guatemalan government and the mining companies mobilized paramilitary forces, security personnel and police officers to enact violence against Q’eqchi’ land and the community of El Estor. Examples of violence faced by land defenders include forced evictions, theft, arson, intimidation, aggravated assault (lawsuit: Chub v. Hudbay),





sexual violence and gang rape of Q'eqchi' women (lawsuit: Caal v. Hudbay), and murder (lawsuit: Choc v. Hudbay; Russell, 2017; Amnesty International, 2017; Front Line Defenders, 2017). These deplorable actions were enabled by paramilitarization and law enforcement, and took place in a general climate of criminalization and incarceration of land defenders enabled by colonial Guatemalan domestic law that does not recognize Q'eqchi' title (Kalowatie et al., 2017). Colonial Canadian law also facilitated these acts of violence because Canadian courts do not yet hold Canadian companies accountable for their actions overseas or the actions of their subsidiaries, though the aforementioned lawsuits are challenging this (Wipond, 2013; Martens, 2016). The violence violates both the UN Declaration on the Rights of Indigenous Peoples, and the UN Guiding Principles on Business and Human Rights, and ultimately is rooted in oppressive systems of extractivism, colonialism and imperialism, white supremacy, and cisheteropatriarchy, among others (Kalowatie et al., 2017; Russell, 2017).

Colonial, imperial, and neoliberal violence of extractivism permeate both historical and ongoing material realities of climate change – the same oppressive logics that govern

the extraction of fossil fuels are also at play with metallurgical mining. That is, fossil fuel and mining extraction co-constitute and reify power relations and material realities of neoliberal racial capitalism, imperialism and colonialism. Further, mining contributes to climate change through carbon dioxide emissions required to extract minerals from the earth, and through a reduction in carbon sinks of vegetation due to deforestation required to prepare mining sites.

I am interested in thinking about mining in relation to envisioning and approaching just, equitable and anti-oppressive climate futures. Projected expansion in renewable energy production, especially of solar panels, wind turbines and energy storage technologies, are heavily reliant on an acceleration of mining to supply heightened demand of metals, particularly nickel, lithium, indium and silver (World Bank, 2017). Thus, renewable energy production depends on imperial and colonial violence of the mining sector. In facilitating a just transition away from fossil fuels, contending with the colonial and imperial violence of extractivism remains of utmost importance to ensure that the climate futures we enact do not perpetuate ecological ruination and simultaneous violence against marginalized

communities, especially Indigenous, Black, people of colour, women, queer, trans and two-spirit folks.

In general, I am complicit in and privileged by overlapping entanglements of racial capitalism, settler colonialism, imperialism, white supremacy and cisheteropatriarchy that I have identified as root causes of the violence associated with the Fenix mine. As a first-generation settler and uninvited guest on unceded, ancestral, and traditional *x'məΘk'əy'm* territories, I am complicit in ongoing violence of settler colonialism on these lands. I identify as a white-passing cis-gendered woman of colour, which grants me partial privileges in systems of white supremacy and cisheteropatriarchy, particularly because I identify with the gender I was assigned at birth, and due to my relatively light skin colour that also means I am not read as racialized in some instances. Further, I am granted privilege by colonial socio-legal and economic configurations in that I am financially stable and have Canadian citizenship. With regards to imperialism, I navigate a contradictory subjectivity: as a Canadian citizen, I benefit directly from wealth generated through Canadian imperial and colonial projects, for example those

of extractivism. However, part of my lineage is rooted in Venezuela, a country that, while inflicting colonial violence on Indigenous people, is also afflicted with legacies and present realities of Canadian and US imperialism.

Ultimately, my positionality with respect to racial capitalism, settler colonialism, white supremacy, cisheteropatriarchy and imperialism means I am complicit in ongoing dispossession and displacement, particularly of Indigenous, Black, people of colour, women, queer, trans and two-spirit folks, and also with respect to the Fenix mine, of Maya Q’eqchi’ land defenders. This complicity is compounded by my positionality as a student at UBC, an institution that simultaneously grants me social capital associated with ‘formal’ education while perpetuating and upholding systems of oppression, for example by investing in and receiving donations from corporations associated with the Fenix mine (Martens, 2016). My subjectivity shapes material realities, both of oppression and of resistance.

My positionality informs what I conceptualize as my responsibilities to the land on which I am situated, the x̣ʷm̥əθkʷəỵəm nation, the human and non-human

communities that coconstitute my being, and the lands and peoples in whose oppression I am implicated. It is from this positionality that I hope to continue my journey of learning and unlearning, exploring North-South solidarities in theory and in practice, and aspiring to practice and embody just climate futures that turn away from extractive violence.

Climate presents and futures

As previously alluded to, climate presents that call for the expansion of renewable energy typically result in the intensification of mining violence in order to extract minerals required for building new energy infrastructures (World Bank, 2017). Ultimately, this represents a perpetuation of the systems of oppression at the root causes of climate change and a reinforcement of current patterns of exploitative relationships towards those devalued and deemed ‘other’ by a cisheteropatriarchal white supremacist society.

The imperial, colonial and extractive paradigms that too often govern human – nonhuman relationships are currently being challenged in three precedent-setting ongoing court cases being heard at the Supreme Court of Canada. These cases

are Chub v. Hudbay, suing for the aggravated assault of German Chub who was shot and left paralyzed, Caal v. Hudbay, suing for gang rape of 11 women from the village of Lote 8, and Choc v. Hudbay, suing for the murder of human rights defender and father of five Adolfo Ich (Amnesty International, 2017; Russell, 2017). The lawsuits were initiated in 2010, and in 2013, the Ontario courts ruled that the cases could go to trial. This was legally precedent-setting and was the first time that a Canadian corporation was being sued for the actions of its subsidiaries overseas, representing a significant step for corporate accountability lawsuits (Russell, 2017). The court cases are still ongoing in Canada, though in Guatemala, the security personnel responsible for the crimes were found innocent, and the land defenders have instead been criminalized (Russell, 2017; Front Line Defenders, 2017).

These court cases have enormous potential for holding Canadian corporations accountable for enacting imperial violences, and could motivate the creation of legislation that places limits to, or optimistically ends Canadian imperialism and extractivism while attending to past displacement and dispossession. The court cases could also provide mechanisms for

mandating reparations that hopefully will cover all the legal fees and begin to atone for histories of death-dealing as well as ongoing violences against communities and against the land (Rodríguez, 2016).

However, the drawbacks of seeking justice through colonial court systems include a potential strengthening of legitimacy of Canadian colonial socio-legal practices, as well as probable re-traumatization of the 16 Maya Q’eqchi’ women testifying against Hudbay Minerals. As well, reparations cannot begin to cover the loss of life, family, relations, livelihoods, and customs that Hudbay and other actors have instigated (Barkaskas & Hunt, 2017).

Instead, reparations can provide a remedy and possibilities of healing and regrowth, if they are conceptualized with consultation and consent from the communities involved (Barkaskas & Hunt, 2017). Allocating just reparations requires re-contextualizing and naming the violence surrounding the Fenix mine as imperial and colonial violence, while recognizing this violence as ongoing, rather than historical, and actively and truthfully listening to what the El Estor Maya Q’eqchi’ community experienced, and currently wants and needs (Barkaskas & Hunt,

2017). But while reparations are essential to equitable climate futures, they are often only analyzed as one event and thus cannot overturn the structures of colonialism, imperialism neoliberalism, white supremacy, cisheteropatriarchy, and others.

In order to begin to overturn these systems of oppression, the Maya Q’eqchi’ community is also calling for their title to be recognized, and for the eviction of extractivism from their land so that they can continue to live off the land as they have done for thousands of years (Rodríguez, 2016). This would also result in the protection of Lake Izabal, Guatemala’s largest lake, and the human and non-human communities that rely on the lake (Rodríguez, 2016).

Further, more than solely an instance of resistance through colonial socio-legal principles, the Maya Q’eqchi’ community has embodied practices of Indigenous resurgence that provide pathways towards equitable climate futures rife with decolonial possibilities. The community has recentred on practices of Indigenous strength and tradition as a form of healing, (Rodríguez, 2016). They have also connected across generations to link mining violence to the genocidal massacres that the Maya community faced during the

Guatemalan civil war, revitalizing memory and initiating community healing practices (Kalowatie et al., 2017; Einbindern & Nolin, 2010).

Maya Q’eqchi’ resurgence provides a space for envisioning and embodying alternative futures that focus on relationality to build relationships of reciprocity and consent rather than extraction. They invite a connection to the non-human world that destabilizes colonial conceptions of human exceptionalism (Rodríguez, 2016), and disrupt colonial and imperial configurations of relationships. This is a call for the reconfiguration of relations to non-humans, and to minerals and metals that reshape the economy to be circular and focus on balance and regeneration rather than continual expansion and extraction.

In general, Indigenous resurgence invites a solidarity that respatializes relationships to be grounded in land and place rather than in relation to the illegitimate colonial state (Walia, 2012). Ultimately, these solidarities provide pathways towards futures built on land repatriation and self-determination, and on enacting situated place-based relationships of consent, accountability, reciprocity, respect, allyship, trust, solidarity and love.

TIMELINE of Fenix Mine in El Estor, Guatemala, Maya Q’eqchi’ territories

Events related to climate, race, and the Fenix mine; inspired by the opening activity of Conversations.

Pre-colonialism

Maya Q’eqchi’ people lived in what is now Northeast Guatemala, in relatively independent chiefdoms that maintained relationships with each other, with deities, and with foreign networks that spanned across present-day Central America, and potentially beyond (Kahn, 2006).

1520s–1540s

First contact from Pedro de Alvarado on ‘behalf’ of Spain. The Spanish tried to conquer the Maya Q’eqchi’ people, but were largely unable to do so until the 1540s, when priests entered the region to convert Maya people to Christianity (Kahn, 2006). Following this, Maya Q’eqchi’ people were forcibly displaced, faced many diseases, and until the 1800s, were enslaved in plantations (Kahn, 2006).

1839

Land titles began to be granted for land that wasn’t agricultural. However, communities were forced to rent their land to agriculturalists, largely for coffee production, which eventually gave the land to private agriculturalist owners (Kahn,

1880s–1900s

United Fruit Company (UFC) came to Guatemala to transport bananas to Europe and North America. UFC built a railroad from Puerto Barrios and Guatemala City, completed in 1908 (Kahn, 2006).

1954

In response to Árbenz’s policies and in order to protect the profits of the UFC, the CIA ousted Árbenz and trained General Carlos Castillo Armas as his replacement (Kahn, 2006). The UFC received all its land back using ‘aid’ from the US, displacing Indigenous people once more.

1950

Jacobo Árbenz Guzmán was elected President. He directly challenged the hegemony of foreign interests in Guatemala by building government infrastructure such as roads and ports, and by passing Agrarian reform law. He abolished slavery and forced labour, and redistributed 20% of agricultural land, for example by reclaiming land from the UFC (Kahn, 2006).

1930s

Labour laws supported the UFC and other (mostly imperial) agriculturalists by criminalizing unemployment and landlessness. The process of dispossessing communities of land culminated in 2% of landowners owning 72% of arable lan (Kahn, 2006).

1960–1996

Guatemalan Civil War occurs. By the end of the civil war, it is estimated that around 200,000 people are dead or disappeared, around 80% of which were Mayan, leading the civil war to be likened to genocide (Klippensteins et al., 2019). The vast majority of the violences of the civil war were perpetuated by the Guatemalan government. Maya Q’eqchi’ people still face the consequences of intergenerational violence (Kalowatie et al., 2017).

1963–1968

Canadian company Inco and its subsidiary EXMIBAL were granted a 40-year mining concession to 385 km2, starting the construction and operation of the Fenix nickel mine (Klippensteins et al., 2019). Inco and EXMIBAL wanted the Fenix mine to be an open-pit mine, which was prohibited in the Guatemalan constitution. Inco successfully lobbied for the military government to suspend the constitution and helped them to write new mining and tax codes beneficial to the mining sector that legalized open-pit mining (Klippensteins et al., 2019).

1970–1980

The Fenix mine was met with large community mobilization in opposition. Inco and EXMIBAL get help from the military government in evicting people and achieving ‘stability’ for mine operations. This resulted in the murder of around 3,000 people over a period of 10 years in the El Estor region, many of whom opposed the mine construction (Klippensteins et al., 2019).

1978

Panzós massacre occurred on May 29 as a direct result of land rights struggles. As a response to the kidnapping of community leaders that resisted evictions, around 700 Maya Q’eqchi’ people marched to Panzós to demand their land title be respected (Simons, 2007). They were met with around 150 soldiers of the Guatemalan Army who shot unarmed defenders, murdering at least 140 and injuring at least 300 people. Many of the injured people also died due to lack of medical attention (Simons, 2007).

2008–2011

Hudbay Inc. purchased Skye Resources, whose name changed to HMI Minerals. Hudbay Inc. and Compañía Guatemalteca de Níquel (CGN, Guatemalan Hudbay subsidiary) illegally entered the Maya Q’eqchi’ community of La Union, in the municipality of El Estor in an attempt to forcibly evict peaceful community members without a court order (Front Line Defenders, 2017). On September 27 2009, under the command of Mynor Padilla, the head of security and former lieutenant colonel in the Guatemalan army during the 1981 military regime, the security guards shot at community members, paralyzing German Chub and making him lose the use of a lung (Russell, 2017; Front Line Defenders, 2017). The guards also shot and killed Adolfo Ich, a community leader and teacher, in front of his family (Russell, 2017). Padilla continued to act as head of security for a year after this incident (Russell, 2017). He is currently facing criminal charges in Guatemalan court, but previously court rulings have found him innocent (Russell, 2017).

2004–2008

Another Canadian company, Skye Resources, purchased the Fenix mine property without consent from Maya Q’eqchi’ people, a move that the UN condemned. Police, military, and security forces evicted community members and burned their houses, and in 2007, 11 Maya Q’eqchi’ women in the Lote 8 village were gang raped (Klippensteins et al., 2019).

1982

Fenix mine closed due to the Guatemalan government demanding a 5% royalty from Inco (Klippensteins et al., 2019). This resulted in the sudden loss of jobs for many people, inducing migration out of El Estor. Inco retained access to the land (Klippensteins et al., 2019).

2011

The Swiss company Solway Group purchased the Fenix Mine from Hudbay, and is currently operating the mine after it reopened in 2014 (Klippensteins et al., 2019).

2010–?:

Maya Q’eqchi’ community members bring 3 lawsuits against Hubday in 2010. In 2013, the Ontario courts ruled that the three lawsuits could go forward in Canadian courts. These are Chub v. Hudbay (for aggravated assault of German Chub), Caal v. Hudbay (for gang rape of 11 Maya Q’eqchi’ women), and Choc v. Hudbay (for murder of Adolfo Ich; Russell, 2017). This decision by the Ontario court is precedent setting, representing the first time that a Canadian corporation is being sued for the actions of its subsidiaries overseas. Though the cases are still ongoing, this is a significant step for corporate accountability lawsuits, and has opened the door for many other cases for corporate Canadian imperialism to be held to account (Russell, 2017). The trials are currently ongoing, particularly because Hudbay has been slow at responding and providing evidence (Russell, 2017; Amnesty International, 2017).

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