

Guatemala on Trial: Maya Land Rights Case Reaches International Court

After a decades-long fight against transnational mining interests and state repression, the community's case could set a new precedent for Indigenous land and resource rights.

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Global Research, February 14, 2022

[NACLA](#) 10 February 2022

Region: [Latin America & Caribbean](#)

Theme: [Law and Justice](#)

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The Maya Q'eqchi' community of Agua Caliente is nestled in the mountains surrounding Guatemala's Lake Izabal, in the sacred Valle del Polochic. With plentiful rainfall and tropical weather, the grass and trees are vivid green, and the fertile soil is lush with crops of rice, beans, corn, cacao trees, and many fruits. Located in the municipality of El Estor, Izabal, Agua Caliente is also known for its abundant deposits of nickel, a highly sought-after commodity mainly used to make stainless steel. These riches have for decades made El Estor a target of looting by multinational corporations seeking to exploit and profit from the land and resources. Resisting those incursions is a struggle that locals like [Rodrigo Tot have dedicated their lives](#) to, fighting for the protection of Q'eqchi' ancestral lands and natural resources.

It's a *lucha* that took one of Tot's sons, Edin Leonel Tot Sub, in October 2012, when he was killed in a staged robbery in the presence of his 9-year-old child. “I've received countless threats, but the most painful loss was my son. He is who I think of to keep fighting,” said Tot, a Q'eqchi' elder and leader. “My son's murderers thought I'd stay silent. But what's motivated me the most is that since my son's assassination, more leaders have stepped up, like me, to fight for our land.” Another one of his sons, Wilfrido Rodrigo Tot Sub, was terribly injured in the same attack.

On February 9, Tot, who was awarded the prestigious Goldman Environmental Prize [in 2017](#), testified in front of the Inter-American Court of Human Rights in San José, Costa Rica, in a historic land rights case against the Guatemalan state. The court's ruling could force the Guatemalan government to finally recognize the Q'eqchi' people's collective rights to their ancestral lands and their right to protect their natural resources from exploitative megaprojects—including the destructive open-pit Fénix nickel mine that stands on the banks of Lake Izabal. This is the first time the Guatemalan state has faced judgement in an

international court for violating the ancestral land rights of Indigenous communities.

A ruling in favor of Agua Caliente would be a victory for all 16 Q'eqchi' communities in the municipality of El Estor, whose demands to be consulted on the Fénix mine and other megaprojects have been repeatedly ignored. Their resistance has historically led to deadly repression at the hands of the Guatemalan government, whose longstanding priority has been to protect foreign investors and Guatemala's business and political elite. A win would also set a precedent for Indigenous communities across Latin America and have monumental implications in the fight to protect the environment and the safety of communities on the frontlines of the climate crisis.

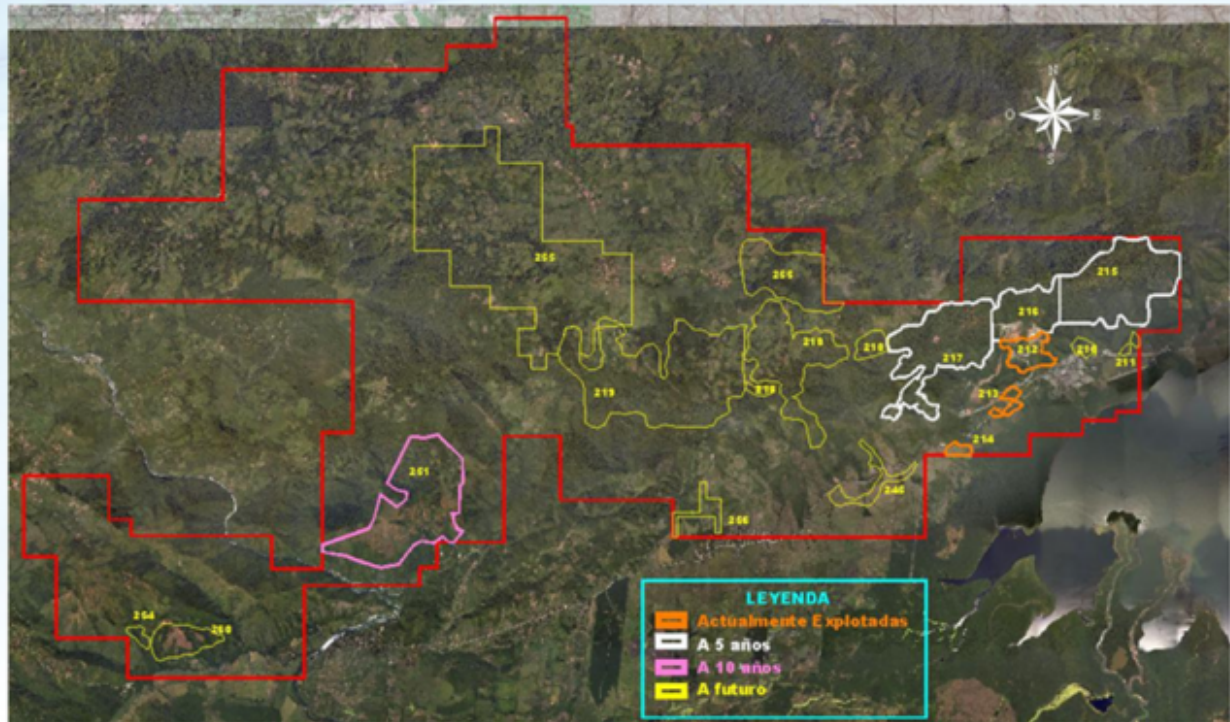
"The scientific community, conservation organizations, and many governments of the world have agreed that securing collective land ownership for Indigenous peoples is the best strategy to...fight climate change," said Leonardo Crippa, an attorney with the [Indian Law Resource Center](#) and a member of Agua Caliente's legal team. "The court can also set rules [for] Guatemala to prevent human rights abuses [from continuing] to occur in a country where the majority of the population is Indigenous, and where all of the land conflicts are somehow involved with mining and other [transnational] operations."

Land Claims Long Ignored

With the legal backing of the U.S.-based Indian Law Resource Center and the Defensoría Q'eqchi', a Q'eqchi' rights group based in El Estor, the case is spearheaded by Tot and other residents of Agua Caliente who have been fighting for formalized titles for their lands for over four decades. Tot is one of the few residents of Agua Caliente who speaks Spanish, and he has been [crucial](#) in keeping the community informed and organizing meetings to collect evidence and consult local residents.

This land has belonged to Q'eqchi' people for centuries, but the colonial Guatemalan state requires documentation to legitimize ownership. The Agua Caliente community began their land titling process in 1974. "Since then, [the community] began to meet all the requirements imposed by law, in order to achieve the legal certainty that would allow residents to continue living in community, in full harmony with the environment and free from any external threats from state and private actors," [legal documents said](#).

EXTRACCIÓN MINERA FENIX



A map of the Fénix mine area. Areas currently under extraction marked in orange. (Indian Law Resource Center)

A provisional title was issued in [1985](#) for the Lote 9 lands, and the community began making payments to the Guatemalan government. But then, in the midst of Guatemala's brutal U.S.-backed civil war, records of Agua Caliente's land ownership disappeared, according to the Indian Law Resource Center. Official documentation crucial for the land titling agency to complete the process was cut out from a registry book. Decades later, in [2002](#), Agua Caliente issued its final land payment, but a permanent title has yet to be granted. Although a government agency, FONTIERRAS, was created after the 1996 peace accords to facilitate land access for rural communities, in practice very little has been done to address the gaping land inequality that sparked the armed conflict, leaving communities like Agua Caliente vulnerable.

Without a response from [FONTIERRAS](#), the community took its fight all the way to Guatemala's highest court. In a landmark 2011 ruling, the Constitutional Court recognized the Q'eqchi' community's collective land rights. It also ordered the Guatemalan government to replace the missing registry documents and issue land titles to the residents of Agua Caliente. The community had built its case using jurisprudence on collective Indigenous land rights from other countries, including [the historic 2001 Inter-American Court ruling](#) that ordered the Nicaraguan government to issue land titles for Awas Tingni, a Mayagna (Sumo) community in the Miskito Coast. This was the first time an international tribunal, with legally binding authority, found a government in violation of the collective land and resource rights of Indigenous people. The Indian Law Resource Center [was also part of the legal team](#) in that case.

The Guatemalan government hasn't enforced the Constitutional Court's 2011 ruling. This is a familiar pattern in Guatemala, where the interests of multinational corporations and the

country's business and political elite often take precedence over people's rights, particularly in Indigenous and Black communities. "This is an example of a community that has been consistently believing in the rule of law," said Crippa. "Unfortunately, this case shows that the rule of law doesn't exist for a community." Having exhausted legal options in Guatemala, Agua Caliente turned to the Inter-American Commission on Human Rights (IACHR), which referred the case to the Inter-American Court in 2020. "This is the final stage in the international litigation," Crippa noted. "The decision that the court will issue will be final and binding." A ruling in the case is [expected in March](#).

A History of State Violence

From Agua Caliente, residents can see black smoke rising from the Fénix nickel mine's processing plant across Lake Izabal. The mine's pollution has stained the clear blue sky, contaminated the air, poisoned the water, and impacted crop growth, threatening the livelihoods of Q'eqchi' community members who rely on agriculture and fishing for work. "Our community believes mother nature is very important," Tot said. Don Rodrigo, as he's called by many, has lived in Agua Caliente since he was 12 years old, when he moved in with uncles and aunts after his parents passed away. He's now in his 60s. "This is where we grew up and we'll be here defending our territory."



The Fénix mine (Baudilio Choc / Radio Victoria)

The Fénix mining project, previously known as the EXMIBAL mine, is operated by Compañía Guatemalteca de Níquel, now a subsidiary of the Switzerland-based Solway Investment Group, which also has ties to Russia. Its destructive presence in the region dates back decades, starting in 1965—in the initial years of Guatemala's civil war—when the U.S.-backed military regime took advantage of the violent instability and rising global nickel prices to [introduce a new mining law](#) and begin issuing permits to multinational mining companies. EXMIBAL was granted a 40-year lease in the area between Chichipate and the town of El Estor in the department of Izabal.

At the core of Guatemala's war were government efforts to steal Indigenous lands and grant free rein to foreign investors and their allies in the Guatemalan elite. As the war intensified, so did the violent conflicts over Indigenous territories. The Fénix mine offers one example of how the Guatemalan government historically has collaborated with multinational

corporations by providing military and police forces that essentially function as companies' private security and hitmen.

In 1978, EXMIBAL—at the time a subsidiary of a Canadian mining company—was involved in an armed attack against a group of farmers in the village of Chichipate. The farmers were shot at by assailants riding in an EXMIBAL vehicle. That same year, in the neighboring department of Alta Verapaz, soldiers and EXMIBAL employees executed four people in the village of Santa María Cahaboncito, according to [Guatemala's Truth Commission](#). Then, in 1981, Chichipate community leader Pablo Bac Caal was abducted by police officers traveling in an EXMIBAL vehicle. Caal was later found murdered. Perhaps one of the most gruesome attacks around this time was the 1978 massacre of Panzós in Alta Verapaz, where the Guatemalan army opened fire on dozens of Q'eqchi' people who had led a protest demanding their land rights be respected and denouncing the disappearance of community leaders taken by soldiers. Although EXMIBAL temporarily [left](#) Guatemala in the 1980s, the Fénix mine resumed operations in 2014 after a spate of violent attacks that are now the subject of a set of precedent-setting civil [lawsuits](#) against a mining company in Canada.

"This is what the community has faced for years," Tot said in a press conference ahead of the Agua Caliente Inter-American Court hearing. "In the years of the armed conflict, our leaders suffered. Many were disappeared fighting for their rights."

It's been 25 years since the signing of Guatemala's [so-called peace accords](#), but the same genocidal, oppressive mechanisms are still in place. Like all Indigenous communities across Guatemala, Q'eqchi' land and water defenders continue to face abductions, arbitrary imprisonment, violent evictions, and extrajudicial killings by Guatemalan security forces and private security personnel working as the lapdogs of multinational corporations. Last October, Guatemalan President Alejandro Giammattei issued a state of siege in El Estor in response to Q'eqchi'-led protests and roadblocks. The demonstrators had cut off access to the Fénix mine and its processing facility to reiterate their longstanding demands for consultation. Soldiers and police in riot gear flooded El Estor, carrying out dozens of raids [and arrests](#).

"The protests and the roadblocks should give the understanding that our people do not support what's happening to their lands," Tot said. "The Guatemalan government is quick to issue [a state of siege] in response to the demands of Indigenous communities, but when it comes to our actual demands [on the land], they give us no answer."

In December, just weeks after the violent crackdown, Prensa Comunitaria reported the [Fénix mine's consultation process](#) with the El Estor community had ended—a fraudulent process since dozens of Q'eqchi' leaders were excluded and the consultation itself took place under a state of siege, which suspends civil rights. The completion of the process cleared the way to reactivate the mine's license, which the Constitutional Court had suspended in 2019 pending consultation. A union of fishery workers, the Gremial de Pescadores Artesanales, had secured the halt through a legal battle over the [government's failure](#) to conduct an environmental impact study and consult communities affected by the mine. However, communities maintain that the Fénix mine ignored that [ruling and never paused its operations](#).

Now, the Agua Caliente case being heard by the Inter-American Court has brought hope that things could change. And a judgement in favor of the plaintiffs could offer not only reparations for Agua Caliente, but also new legal tools for Q'eqchi' communities in the

region in their fights against other catastrophic megaprojects and monocrops, [including African palm plantations](#).

“The community has decided to fight, and that’s why I’ve given my life to fight for them,” Tot said. “I want Guatemala to recognize the harm it’s caused us. And I want to ask [Indigenous] communities, not only in Guatemala but in other countries, to unite. This is a valuable struggle that’s worth fighting for.”

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Featured image: Rodrigo Tot (center) speaks with Agua Caliente community members. (Goldman Environmental Prize)

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