

Summary of the petition presented to the Inter American Commission on Human Rights (IACHR) against the state of Mexico for the assassination of land and environment defender Mariano Abarca

Date presented: June 26, 2017

Petitioners: Mariano Abarca's wife and children, Otros Mundos A.C., Chiapas, the Human Rights Centre of the Faculty of Law at the Autonomous University of Chiapas (UNACH) and the Mexican Network of Mining-Affected Peoples (REMA)

Rights violated as a result of the harassment, threats, criminalization and murder of Mariano Abarca, together with the impunity in his case: Right to life, to humane treatment, to personal liberty, and to a fair trial; the right of assembly and the right to judicial protection

On November 27, 2009, Mariano Abarca Roblero, a community leader in Chicomuselo, Chiapas, México and member of the Mexican Network of Mining Affected Peoples (REMA), was assassinated. Mariano was dedicated to defending the environment against the negative impacts of the mining operations of Canadian company Blackfire Exploration. More than seven years later, his assassination remains in impunity.

Since his murder, information has come to light about the unconscionable support that the Canadian Embassy in Mexico provided to Blackfire. The petition brought to the Inter American Commission on Human Rights (IACHR) alleges that the Mexican state is responsible for violations of the right to life, to humane treatment, to a fair trial, among others, committed while acting in favour of Blackfire and in response to repeat interventions of Canadian diplomacy on behalf of the company.

Events Leading to the Assassination of Mariano Abarca Roblero

Since late 2007, when Canadian mining company Blackfire Exploration began to operate the Payback barite mine in the municipality of Chicomuselo, conflict began to emerge in the community. From the start, Mariano Abarca played a leading role in defence of the environment and public health with regard to the impacts from mining in the area.

A short time after the mine went into operation in early 2008, Mariano Abarca began to receive threats and diverse forms of intimidation, both physical and legal, from directors and workers of the mining company. In August 2008, Mariano Abarca and his family were attacked and robbed in their home by three men who worked for Blackfire. Despite the fact that Mariano filed a complaint concerning this incident the day after it occurred, it took another year and only after the murder of Mariano before individuals were formally charged and sentenced for this incident to one year and nine months in jail, only then to be set free on bail.

Between 2008 and 2009, the conflict in Chicomuselo over the social and environmental harms from Blackfire's operations continued to grow, which was expressed in a variety of peaceful demonstrations. Under Mariano Abarca's leadership, from June 10, 2009 until the end of July 2009, residents of Chicomuselo blocked a street in the centre of town to prevent the company's trucks from using that route, although there were alternate routes available. They demanded that municipal and state authorities suspend the company's operations, not only for the damages to their homes and the environment, but also as a result of threats that they had received from company workers and in protest to payments that the company admitted to have been paying into the personal bank account of the then Municipal President Julio César Velásquez Calderón.

The day after the demonstration began, on June 11, 2009, the Director General of Blackfire Exploration filed trumped up accusations against Mariano Abarca and others. In August 2009, on the basis of this complaint, Mariano Abarca was detained on allegations such as illicit association and being a threat to the peace and state security. Eight days later, as a result of the outcry from national and international organizations directed toward state and federal authorities, as well as the Canadian Embassy, Mariano Abarca was released unconditionally given the lack of evidence that the protest was violent or represented a threat to public order.

Mariano Abarca continued his involvement in the struggle against mining in Chicomuselo once he was released, and he and others continued to receive threats. In the context of increasing intimidation and threats, on November 24, 2009, Abarca filed a complaint with the state public prosecutor, requesting an investigation into the threats he was facing. On November 24 and 26, 2009, the state attorney in Chicomuselo issued citations for three individuals who Mariano had named, who all had ties to Blackfire.

The next day, November 27, 2009, at approximately 8pm, Mariano Abarca Roblero was outside of his home sitting in the passenger's seat of a Jeep with the top down, talking with his friend Orlando Velásquez Rodríguez. Suddenly, a person appeared who shot Mariano three times at close range, shooting him in the left side of his chest and neck, also wounding Orlando Velásquez. The victim ran to the corner where someone was waiting for him with a motorcycle, on which they fled. Mariano Abarca was taken to the local medical clinic, but by the time he arrived, he had already died.

Following his murder, a criminal investigation was opened. Within the first few weeks, several people were detained, all of whom had some connection to the mining company. Ultimately, one person was charged in connection with the murder and sentenced to time in jail for four years, after which he was absolved and let go. The criminal investigation was not carried out with respect for due process; the investigation into what happened lacked rigour, and neither were all those directly and indirectly responsible ever identified. The case remains open with the public prosecutor's office.

The Influence of the Canadian Embassy in Mexico

From before the Payback mine went into operation until after the murder of Mariano Abarca, Blackfire Exploration enjoyed the full support of the Canadian Embassy in Mexico, which repeatedly intervened on the company's behalf with state authorities in Mexico and could have influenced what took place in this case. On the basis of documents obtained under the access to information act in Canada, it has been possible to develop a timeline of the Embassy's lobby on behalf of the company, and to establish that the Embassy had considerable knowledge of the mining conflict in Chicomuselo and Mariano Abarca's situation.

It is important to note the importance of the commercial and political relationship between Canada and Mexico with regard to mining. Canada is the most important foreign investor in Mexico's mining sector, where some 65% of the foreign mining companies operating in Mexico are domiciled in Canada. For Canada's part, Mexico is the second most important destination for Canadian overseas direct investment in mining on a global level. As of 2015, 11.3% of Canadian mining assets abroad are in Mexico.

Notably, the Canadian Embassy's support was essential to the opening of Blackfire's mine in 2008. This included exerting diplomatic pressure on state authorities in Chiapas. In an email dated September 12, 2008, from a Blackfire representative to the political attaché at the Canadian Embassy, Blackfire thanked the participation of the diplomatic mission: "All of us at Blackfire really appreciate all that the Embassy has done to help pressure the state government to get things going for us. We could not do it without your help." In an email sent the same day, the political attaché further underscored the role that the Embassy played, stating: "Company is very thankful for Ambassador's interventions with Governor."

In late July 2009, a delegation traveled 16 hours from Chicomuselo to the city of Mexico to participate in a demonstration outside the Canadian Embassy to protest its support for the mining company. A video of the protest, recorded on July 22, 2009, shows Mariano Abarca speaking with a public relations person from the Embassy. Abarca explains that the company had broken its promises to provide work to everyone in the Ejido Grecia, and to carry out some 20 projects. He also described how roads in Chicomuselo had been damaged by the company's trucks. He emphasized that the community was particularly concerned about environmental contamination given the importance of the rivers that flow from the Sierra Madre highlands of Chiapas. On film, Abarca also alleges that Blackfire was using some of its approximately 40 workers as 'shock troops' against protesters.

Despite having heard Mariano Abarca's testimony and being aware that the company had filed accusations against Mariano which motivated his detention in August 2009, the Canadian Embassy demonstrated support for the company's actions and took side with the company, lobbying Mexican authorities accordingly. On August 19, 2009, the Embassy requested information from several authorities including the Secretary of Tourism and International Affairs in Chiapas, the Human Rights Commission in Chiapas and Blackfire, concluding that Mariano's detention was "*a legal arrest* for blockading a road to the Blackfire barite mine site."

[emphasis ours]. The Embassy's interventions appear to have been motivated in large part by concern about the possible impact of negative publicity on Canadian business interests in Mexico: "We did this first to establish the facts, as well as to signal our concern with relevant authorities and players about any allegation of illegal activity surrounding Canadian investments in Mexico," wrote the political attaché. There is no evidence that the Embassy undertook to assess the legitimacy, veracity and proportionality of the crimes of which the company had accused Mariano and for which he was detained.

Two months later, in the context of growing uncertainty regarding the future of the mine, the Canadian Embassy sent a delegation to Chiapas with the objective of evaluating the situation and troubleshooting for the company. The objective of the visit to Chiapas was described by the Embassy as "to discuss the negative climate that Blackfire and other Canadian mining companies are facing." In addition to other meetings, the Embassy delegation met with the then Secretary to the Governor Noé Castañón León to "try to resolve the challenges that Blackfire was facing." Aware that the company's operations would continue to create conflict, the Trade Commissioner sent a message to the federal Secretary of Economy in which he expressed concern for the possible increase in taxes on Blackfire's operations and indicated his knowledge of the conflict that the project was creating, "the company (and the Embassy) believe that we're going to have new problems/blockades in the future."

The State of Blackfire Exploration's Payback Mine

On December 7, 2009, following an inspection by the Chiapas Ministry of the Environment and Housing, Blackfire's Payback mine was suspended. The environmental authority shuttered the mine given, among other things, that "Impacts on surrounding ecosystems is not only reliant on the method used, but also fully abiding by environmental legislation. In a highly sensitive area such as the forests that make up part of the Sierra Madre highlands of Chiapas, deforestation and subsequent erosion –which is more extensive and serious where open-pit mining is involved- has irreparable environmental impacts in the short, medium and longterm..." The delayed response from the environmental authorities revealed a sad reality: the very things that motivated Mariano Abarca Roblero to fight for the environment and for which he faced threats, attacks, criminalization and then ultimately lost his life, were justified and true.