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The Lawyer's Daily

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Natural Resources

Group urges answers from Canadian embassy in Guatemala on protection of lawyer

By Terry Davidson

(December 12, 2017, 9:46 AM EST) -- A group of lawyers is demanding to know what Canada's embassy in Guatemala is doing there to protect a fellow advocate under threat while acting for opponents to a Canadian mining project.



Guatemalan lawyer Rafael Maldonado

On Nov. 30 the small group of Canadian lawyers and scholars forming the Justice and Corporate Accountability Project (JCAP) sent a letter to the embassy wanting to know what officials there have been doing to support lawyer Rafael Maldonado in accordance with Voices at Risk, a Canadian government policy aimed at supporting human rights defenders around the world.

Maldonado has been acting for Guatemalan opponents to the Escobal silver mine, a project owned by British Columbia's Tahoe Resources Inc. The mine is just outside Guatemala City.

During his time acting for those impacted by the project, Maldonado has been the target of multiple death threats and may or may not have been the target of an incident where multiple shots were fired into a vehicle parked outside his home, said Shin Imai, an Osgoode Hall law professor and legal counsel to JCAP.

He said the letter marks the first time JCAP has demanded that a Canadian embassy detail how it is upholding Voices at Risk, which was enacted by Canada's Liberal government in 2016.

The JCAP letter comes several months after the Law Society of Upper Canada penned a letter to Guatemala's president, expressing "grave concern over the intimidation of ... Maldonado."



Shin Imai, an Osgoode Hall law professor and legal counsel to JCAP

"I think, generally, lawyers in many places are threatened," said Imai. "[But] ... what makes this unique is two things. One, it is a Canadian mining company. The other is the Canadian embassy, and we know the Canadian embassy has been supportive of the mine in the past. I don't know how much [it] is right now. ... One of the issues was that there was this new Voices at Risk policy put in place because the Canadian embassies were ... leaning with the Canadian mining companies."

According to JCAP's letter, Maldonado was involved in a 2015 Guatemalan Supreme Court of Justice decision to temporarily suspend two of Tahoe's mining licences pending a hearing into an alleged lack of consultation with communities living near the Escobal mine.

That suspension has since been lifted.

But supporters of the mine took out advertisements attacking Maldonado and his organization, the Legal, Environmental and Social Action Centre of Guatemala (CALAS), according to JCAP's letter to the embassy.

Imai said he is not alleging that Tahoe Resources is behind the threats directed toward Maldonado, or somehow involved in any other incidents — including the deaths of three Guatemalans who were organizing community votes on the Escobal project.

But Tahoe had been taking legal steps to try and stop these votes from happening, said Imai.

In its 2016 annual report, the Front Line Defenders advocacy group classified Guatemala as a place where human rights defenders have "suffered judicial harassment, physical attacks, threats, intimidation and smear campaigns," particularly when it comes to their "opposition to so-called 'mega-projects' ... being developed by mining companies."

The group claims Maldonado has been the target of multiple death threats, as well as a 2013 break-in. It also makes note of the gunshots fired at the vehicle outside Maldonado's home, as well as "intimidation, attacks, smear campaigns ... and judicial harassment."

Imai was asked if there has been any indication the Canadian embassy has done anything to help Maldonado.

"I don't know, that is why we're asking," he said. "Certainly, there has been nothing publicly. ... That is one of the things we want to say: you have this new [Voices at Risk] policy. It was put in there for good reasons because of the [way] embassies have acted in the past, and because there is this international movement to try and protect people like [Maldonado]. The policy ... gives you specific things you should be doing. So, what have you done?"

Imai said the embassy in Guatemala has a responsibility to step up and defend Maldonado, if it isn't already doing so.

"The Voices at Risk policy was instituted in order to give the Canadian embassies abroad some ability to address human rights issues in the country in which they were located, especially in countries like Guatemala [where] the rule of law is weak and human rights abuses are rampant," he said. "This policy will apply to any human rights defender, whether or not they were in conflict with a Canadian company. However, in this case, the conflict with the Canadian company is clear, the ... embassy has a special responsibility to ensure that lawyers are protected."

Global Affairs Canada confirmed the embassy received JCAP's letter, but comment was not provided.