

Q&A: *Máxima Acuña Atalaya de Chaupe v. Newmont Mining Corporation*



Background

In September 2017, Máxima Acuña Atalaya de Chaupe and her family filed a lawsuit in U.S. federal court in Delaware against Newmont Mining Corporation and three of its U.S. corporate subsidiaries. The lawsuit seeks to stop the systematic harassment and physical and psychological abuse that the Chaupe family has suffered at the hands of security personnel working on behalf of Newmont and its corporate affiliates. Newmont, a U.S. mining company, is one of the largest gold producers in the world.

1) Why is the case in the United States instead of Peru?

Newmont and its corporate subsidiaries – all incorporated in Delaware – control the abuses committed against the Chaupe family in Peru. These actions are violations of U.S. law and the U.S. court has the power to order Newmont and its corporate affiliates to stop such abuses. Delaware, in particular, has a strong interest in regulating the conduct of Delaware corporations. Additionally, Newmont has in the past been implicated in corruption involving the Peruvian courts.

2) What is the purpose of the case?

The objective of the case is to ensure that transnational corporations and their subsidiaries are held accountable for the human rights violations they commit, as well as to ensure the right of the Chaupe family to live in peace without physical and psychological abuse.

3) What does the lawsuit ask for?

There are two main requests in the complaint: 1) to stop the ongoing harassment and aggression against the Chaupe family in order to avoid future human rights violations; and 2) remedies for physical and psychological suffering.

4) Is the Chaupe family asking for compensation in the judicial process in the United States?

Among other remedies, the Chaupe family is asking for compensation, and the judge and jury in the U.S. court process will decide whether the family is entitled to receive reparations and what amount they will receive. Under U.S. law, the judge will determine if there is a legal basis and sufficient evidence to award damages to the plaintiffs; at trial, a jury will then decide how much compensation to award. The considerations of whether compensation are appropriate are similar to human rights tribunals such as the Inter-American Court of Human Rights.

5) Is the Chaupe family requesting \$75,000 for each family member?

The lawsuit is not asking for a particular amount of compensation. The abuse that the Chaupe family has suffered easily surpasses this amount.

The reason that \$75,000 is mentioned in the lawsuit is due to technical requirements for filing in federal court in the United States. This kind of lawsuit can only be filed in federal court if the value of the claimed damages exceeds \$75,000. For the claim to qualify for federal court jurisdiction, the complaint has to mention that the requested compensation exceeds \$75,000 because the value of the physical, psychological and other damages may exceed that amount.

The Chaupe family will only receive compensation, in an amount to be determined by a jury, if the jury accepts that their claims of abuse are true and a judge decides that there is enough evidence to hold Newmont legally responsible.

6) Why is the Chaupe family seeking compensation even after Máxima won the Goldman Environmental Prize?

We are thrilled that Máxima was awarded the Goldman Environmental Prize in 2016, recognizing her efforts to defend her family's land. But winning this prize does not nullify the Chaupe family's right to receive compensation for the human rights violations they have suffered. In fact, the prize has nothing to do with the responsibility of the mining companies, much less the family's right to justice and appropriate remedies. International human rights law provides that people who suffer violations of their human rights are entitled to comprehensive remedies, including compensation.

7) If the Chaupe family wins its case in the United States, will it win the land conflict against Minera Yanacocha?

This case is not about the dispute over ownership of Tragadero Grande, the property where Máxima and her family have lived for over 20 years. Civil litigation in Peru over ownership of the land is ongoing, and the Peruvian court will make the final decision.

Despite the land dispute in Peru, nothing justifies committing violence and abuse against the Chaupe family – that is what the U.S. lawsuit is about.