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International Justice & Human Rights Clinic

THE UNIVERSITY OF BRITISH COLUMBIA

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Human Rights Impacts of Canadian Corporations Operating Abroad: Assessing the Limitations of the Canadian Ombudsperson for Responsible Enterprise (CORE) and the National Contact Point (NCP)

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Endorsed by:



I. Introduction

This shadow report is submitted for Canada's review before the Human Rights Committee under the *International Covenant on Civil and Political Rights* (ICCPR). In response to **paragraph 2 of the List of Issues prior to submission of the seventh periodic report of Canada**, this report assesses Canada's compliance with its Covenant obligations regarding the overseas human rights impacts of Canadian corporations, with particular attention to the limitations of the Canadian Ombudsperson for Responsible Enterprise ("CORE") and the National Contact Point ("NCP")¹. The Committee has previously expressed concern about the absence of binding measures to ensure that Canadian corporations operating abroad respect Covenant rights, in addition to persistent barriers faced by victims seeking accountability and effective remedies.² While Canada has acknowledged these concerns, its Responsible Business Conduct ("RBC") framework relies primarily on voluntary mechanisms that lack enforceability and the capacity to compel meaningful outcomes. As a result, individuals and communities affected by corporate-related human rights abuses perpetuated by Canadian businesses cannot access effective recourse. This report demonstrates that **Canada's current approach fails to satisfy its obligations under Article 2 of the ICCPR, in particular, the duty to ensure an effective remedy under Article 2(3)**. It underscores the need for

¹ The NPC is the primary mechanism responsible for promoting Organisation for Economic Co-operation and Development Guidelines in Canada and dispute resolution concerning non-compliance with OECD guidelines. See Government of Canada, "About the National Contact Point for Responsible Business Conduct" (19 August 2024), online: GAC <<https://www.international.gc.ca/trade-commerce/ncp-pcn/about-a-propos.aspx?lang=eng>>.

² UN Human Rights Committee, *Concluding observations on the sixth periodic report of Canada*, UN Doc CCPR/C/CAN/CO/6 (13 August 2015) at para 6.

effective remedies which require “tangible outcomes” rather than mere access to a “remedial mechanism” or process.³

II. Deficiencies of the CORE

In 2019, the Government of Canada created the Canadian Ombudsperson for Responsible Enterprise (CORE) in response to reports of human rights abuses by Canadian companies operating abroad.⁴ Established by Order in Council 2019-1323, the CORE’s mandate is to promote the Organisation for Economic Co-operation and Development’s Guidelines for Multinational Enterprises (“the OECD Guidelines”) and the United Nations Guiding Principles on Business and Human Rights (“UNGPs”).⁵ As part of that mandate, the CORE is responsible for examining alleged human rights abuses linked to the operations of Canadian companies active abroad in the garment, mining, and oil and gas sectors.⁶ The Ombudsperson is also tasked with offering informal mediation services between complainants and respondent companies, and providing recommendations to Canada’s international trade minister.

A. Current Vacant Post of the CORE

Currently, the status of the CORE remains in limbo, as the government has provided no guidance on its future. In April 2024, the first ombudsperson, Sheri Meyerhoffer, stepped down at the end of her five-year term.⁷ Following the conclusion of the interim ombudsperson Masud Husain’s term in May 2025, the government has left the position vacant. Since the vacancy, the office of the CORE has not announced any new investigations, and at least 32 complaints remain unprocessed.⁸ Moreover, the federal

³ Canada, House of Commons. *Mandate of the Canadian Ombudsperson for Responsible Enterprise*. Report 8, Standing Committee on Foreign Affairs and International Development, 43rd Parl, 2nd Sess, Sven Spengemann (Chair) & Subcommittee on International Human Rights, Peter Fonseca (Chair) (June 2021), online: House of Commons <www.ourcommons.ca/Content/Committee/432/FAAE/Reports/RP11419917/faaerp08/faaerp08-e.pdf>; See also Office of the United Nations High Commissioner for Human Rights (OHCHR). “Principle 31.” *Guiding Principles on Business and Human Rights* (2011) at pp. 33–34.

⁴ Standing Committee on Foreign Affairs and International Development & Subcommittee on International Human Rights, “Mandate of the Canadian Ombudsperson for Responsible Enterprise” (June 2021) at p. 1, online (pdf): House of Commons <www.ourcommons.ca/Content/Committee/432/FAAE/Reports/RP11419917/faaerp08/faaerp08-e.pdf>.

⁵ See Canada, Schedule to Order in Council P.C. 2019-1323 (September 2019), online: <orders-in-council.canada.ca/attachment.php?attach=38652&lang=en> [Order in Council] at s 4.

⁶ *Ibid.*

⁷ Steven Chase, “Canada’s Ombudsperson for Corporate Misconduct Abroad Stepping Down,” *The Globe and Mail* (13 November 2025), online: <www.theglobeandmail.com/canada/article-canadas-ombudsperson-for-corporate-misconduct-abroad-stepping-down/>.

⁸ Catherine Coumans, “Letter to the Minister of International Trade: Canada’s Commitment to a Strong Canadian Ombudsperson for Responsible Enterprise (CORE)” (4 September 2025), *MiningWatch Canada* (blog), online: <miningwatch.ca/blog/2025/9/4/letter-minister-international-trade-canadas-commitment-strong-canadian-ombudsperson>

government's 2025 budget makes no mention of funding for the CORE.⁹ Stakeholders have expressed deep concern regarding the future of the CORE and the "disturbing lack of transparency surrounding the office."¹⁰ As the CORE is a key component of Canada's strategy to promote responsible business conduct abroad, civil society groups have called on the government to immediately staff the CORE with a new ombudsperson and equip the office with the resources and powers necessary to properly fulfill its mandate.¹¹ Despite these calls, significant concerns remain regarding the CORE's lack of investigative powers and independence, which are examined in the following section.

B. Overview of the CORE Complaint Mechanism

Since the CORE became operational, several organizations and individuals have raised concerns that the office is unfit to fulfill its mandate.¹² Specifically, stakeholders have identified several deficiencies in the CORE's compliance and dispute-resolution mechanism. According to the CORE's operating procedures,¹³ any person, organization, or community can file a complaint of possible human rights abuses. If the complaint is admissible, the Ombud will seek to resolve the complaint with both the complainant and the business entity through information sharing, dialogue, and facilitated negotiation. If the Ombud is not able to resolve the dispute during this initial process, the parties may agree to mediation. Alternatively, the Ombud will begin a review of the complaint during which they may conduct interviews, invite submissions from the parties, consult experts and stakeholders, and undertake country

⁹ MiningWatch Canada, *Liberal Budget Leaves Corporate Watchdog in Limbo, Abandons Communities Abroad* (06 November 2025) MiningWatch Canada (online): <miningwatch.ca/news/2025/11/6/liberal-budget-leaves-corporate-watchdog-limbo-abandons-communities-abroad>.

¹⁰ Aidan Gilchrist-Blackwood, "Letter to Minister Sidhu on the future of the Canadian Ombudsperson for Responsible Enterprise" (23 May 2025), online: CNCA - RCRCE <cnca-rcrce.ca/2025/05/23/letter-to-minister-sidhu-on-the-future-of-the-canadian-ombudsperson-for-responsible-enterprise/>.

¹¹ Coumans, *supra* note 8; see also Gilchrist-Blackwood, *supra* note 10.

¹² See: Allard International Justice and Human Rights Clinic, *Core Principles for Corporate Respect for Human Rights and the Environment Abroad* (Vancouver: Allard School of Law, May 2024), online: <allard.ubc.ca/sites/default/files/2024-05/Core_Principles_Final.pdf> [CORE Principles]; Allard International Justice and Human Rights Clinic, *Empowering the CORE: Toward a More Effective Canadian Ombudsperson for Responsible Enterprise* (Vancouver: Allard School of Law, February 2021), online: <allard.ubc.ca/sites/default/files/2021-02/Empowering-the-CORE-FINAL.pdf> [Empowering the CORE]; Canadian Network on Corporate Accountability—Réseau canadien pour la responsabilité des entreprises (CNCA-RCRCE), "A Brief History of the Canadian Ombudsperson for Responsible Enterprise (CORE)" (23 March 2020), CNCA-RCRCE, online: <cnca-rcrce.ca/2020/03/23/brief-history-core/>; Canadian Network on Corporate Accountability—Réseau canadien pour la responsabilité des entreprises (CNCA-RCRCE), "Letter to Minister Carr: Canada Must Fulfill Its Commitment to an Independent Ombudsperson" (7 June 2019), CNCA-RCRCE, online: <cnca-rcrce.ca/2019/06/07/letter-to-minister-carr-canada-must-fulfill-its-commitment-to-an-independent-ombudsperson/>; see also: Standing Committee on Foreign Affairs and International Development & Subcommittee on International Human Rights, "Mandate of the Canadian Ombudsperson for Responsible Enterprise" (June 2021) at pp. 29 - 36, online (pdf): House of Commons <www.ourcommons.ca/Content/Committee/432/FAAE/Reports/RP11419917/faaerp08/faaerp08-e.pdf>.

¹³ Canadian Ombudsperson for Responsible Enterprise, *Operating Procedures for the Human Rights Responsibility Mechanism of the Canadian Ombudsperson for Responsible Enterprise (CORE)*, 2024.

visits.¹⁴ Critically, the Ombud does not have the power to compel documents and testimony from the companies it investigates.¹⁵

C. Lack of Robust Investigative and Remedial Powers

When the CORE was established, then Trade Minister François-Philippe Champagne announced the government's intention to equip the Ombud with "all the tools and resources" necessary to conduct investigations and pursue its mandate.¹⁶ However, the Ombud was never granted compulsory investigative powers. Without the power to compel witnesses and evidence, the CORE is reliant on the voluntary cooperation of companies under investigation.¹⁷ Companies that are accused of human rights abuses have little incentive to comply with the CORE's investigations, especially when internal documents disclose human rights abuses in their operations and supply chains.

Where a company refuses to comply with an investigation, the remedial powers of the CORE are severely limited. The Ombud may report publicly on the results of the investigation and make recommendations to any party. If the Ombud considers that a company is not implementing its recommendations, they may also recommend that the Trade Minister impose trade measures, including the withdrawal or denial of trade advocacy support or the refusal of Export Development Canada to provide future financial support to the company.¹⁸ These measures go some way to encourage companies to comply with CORE investigations. However, aside from the imposition of trade measures, the consequences for a company that fails to comply with an investigation are minimal.¹⁹

In line with its obligations under **Article 2(3) of the ICCPR**, the Government of Canada must ensure that an effective remedy is accessible to victims of human rights abuses that arise from the foreign operations of Canadian companies. Given that the CORE lacks robust investigative and enforcement powers, the current Ombud is an insufficient vehicle for ensuring respect for human rights. Accordingly, several bodies – including Canada's House of Commons Standing Committee on Foreign Affairs and International Development – have called on the Government of Canada to consider vesting the CORE with

¹⁴ *Ibid*, para. 11.7 - 11.8; see also Sean Stephenson & Mariam Momodu, "The CORE of the matter: An overview of the Canadian Ombudsperson for Responsible Enterprise (CORE) and its relevance to Canadian businesses operating abroad" (10 April 2023), online: *The CORE of the matter: An overview of the Canadian Ombudsperson for Responsible Enterprise (CORE) and its relevance to Canadian businesses operating abroad* <www.dentons.com/en/insights/articles/2023/april/10/the-core-of-the-matter>.

¹⁵ See *Order in Council*. See also: *Empowering the CORE*, *supra* note 12 at pp. 8-13.

¹⁶ Bill Curry, "Trade Minister plans to confront CEOs over human-rights rules", *The Globe and Mail* (18 January 2018), online: <www.theglobeandmail.com/news/politics/trade-minister-plans-to-confront-ceos-over-human-rights-rules/article37653209/>.

¹⁷ Canadian Network on Corporate Accountability–Réseau canadien pour la responsabilité des entreprises (CNCA–RCRCE), *McIsaac Report* (2019) at p. 7, online: <cnca-rcrce.ca/wp-content/uploads/2023/12/McIsaac-Report-2019-leaked.pdf>.

¹⁸ Sheri Meyerhoffer, *How CORE works: Plain language operating procedures Canadian Ombudsperson for Responsible Enterprise*, online: <core-ombuds.canada.ca/core_ombuds-ocre_ombuds/how_CORE_works-comment_fonctionne_OCRE.aspx?lang=eng#independent-fact-finding>.

¹⁹ *CORE Principles*, *supra* note at p. 12.

the power to compel witnesses and documents²⁰, as well as to equip it with powers to enforce recommendations and remedies to effectively halt human rights violations.²¹ Following the CORE's first final report, which presented the findings of an investigation into the activities of Dynasty Gold Corporation, the then-ombudsperson, Meyerhoffer noted that "Government can and should better equip the CORE to fulfill its mandate to promote and ensure responsible enterprise on the part of Canadian companies operating outside of Canada. In particular, the CORE should be granted the ability to compel documents and testimony from the companies it investigates."²²

D. Addressing the CORE's Lack of Compulsory Investigative Powers

The CORE's limitations stem directly from the legal authority under which it was created. The Government of Canada established the CORE by Order in Council, appointing the Ombud as a special advisor to a Minister under section 127.1(1)(c) of the *Public Service Employment Act*.²³ Under the Act, the Government of Canada does not have the authority to vest the CORE with compulsory investigative powers.²⁴ Accordingly, the Government of Canada cannot confer the power to compel testimony and documents on the CORE by amending its Order in Council.²⁵

In 2019, then Minister for International Trade Jim Carr commissioned a report on how best to equip the CORE with the necessary tools to conduct credible and effective investigations (the *McIsaac Report*). According to the report, the best way to ensure the CORE has sufficient investigative tools is for Parliament to enact new legislation recreating the CORE and delineating its powers, including the power to compel documents and testimony.²⁶ To that end, the Canadian Network on Corporate Accountability (CNCA) has put forward model legislation that would create a corporate watchdog with the power to enforce the production of evidence.²⁷ Likewise, a private member's bill was introduced that aimed to

²⁰ *Mandate of the Canadian Ombudsperson for Responsible Enterprise*, (June 2021) online: <www.ourcommons.ca/Content/Committee/432/FAAE/Reports/RP11419917/faaerp08/faaerp08-e.pdf> at p. 3 (Hon. Sven Spengemann & Peter Fonseca).

²² Canadian Ombudsperson for Responsible Enterprise, "Statement on 26 March 2024," *CORE Ombuds*, online: core-ombuds.ca/core_ombuds-ocre_ombuds/news-nouvelles/2024-03-26-statement-declaration.aspx?lang=eng.

²³ Order in Council at s 2; Public Service Employment Act (S.C. 2003, c. 22) s 127.1(1)(c).

²⁴ *Supra* note 19 at p. 24.

²⁵*Ibid*; *Supra* note 3 at p. 34.

²⁶ *Ibid* at p. 24

²⁷ Canadian Network on Corporate Accountability, *The Corporate Respect for Human Rights and the Environment Abroad Act*, 2021, online: <cnca-rcrce.ca/model-legislation-due-diligence/> [The Corporate Respect for Human Rights and the Environment Abroad Act].

establish a Commissioner for Corporate Responsibility Abroad with the power to compel witnesses and documents.²⁸ To date, neither of these proposals has become law.

Alternatively, as an interim measure, the Government of Canada could appoint the Ombud as a commissioner under Part 1 of the *Inquiries Act*, which would provide the Office with the power to compel information.²⁹ While this change would not provide the CORE with all of the necessary powers of search and seizure, a new Order in Council issued under the *Inquiries Act* would be a welcome step forward vis-à-vis the CORE's ability to meet its mandate and meaningfully investigate human rights abuses by Canadian corporations operating abroad.³⁰

E. Ensuring Independence of the CORE

Financial independence is a key component of effective oversight mechanisms, as inadequate or unstable funding can exert indirect pressure and discourage scrutiny of powerful business or political interests.³¹ The UNGPs set out a number of criteria by which the effectiveness of non-judicial grievance mechanisms, such as the CORE, may be assessed (see UNGP 31).³² While independence is not listed as a stand-alone criterion of effectiveness, a 2023 report commissioned by the CORE emphasized that independence is an essential means of satisfying these criteria.³³ For example, independence contributes to a mechanism's legitimacy and helps ensure that it can act equitably and free from bias (see UNGP 31(a) and (d)). International standards, including the Venice Principles on the Protection and Promotion of the Ombudsman Institution, affirm that ombudsman institutions must enjoy budgetary independence and that funding must be adequate to ensure the full, independent, and effective discharge of their responsibilities.³⁴ The current absence of the CORE from the federal budget raises serious concerns in this regard. These concerns are compounded by requirements that CORE reports be submitted to the responsible Minister and, in certain sectors, to additional Ministers before being tabled in Parliament.³⁵

²⁸An Act to amend the Canadian Human Rights Act and the Public Servants Disclosure Protection Act (Bill C-263, 44th Parl, 1st Sess), online: <www.parl.ca/DocumentViewer/en/44-1/bill/C-263/first-reading>.

²⁹ *Ibid* at p. 36.

³⁰ *Supra* note 15 at p. 24.

³¹ *Supra* note 19 at p. 6.

³² Office of the United Nations High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework* (United Nations, New York & Geneva, 2011) HR/PUB/11/4 (online): <www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf>.

³³ Canadian Ombudsperson for Responsible Enterprise, “Role and Importance of CORE,” *CORE Ombuds*, online: <core-ombuds.canada.ca/core_ombuds-ocre_ombuds/role_significance-role-importance.aspx?lang=eng>.

³⁴ See Council of Europe/Venice Commission, European Commission for Democracy Through Law (Venice Commission), *Principles on the Protection and Promotion of the Ombudsman Institution*, (Strasbourg: Venice Commission, 2019), online: <[www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDLAD\(2019\)005-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDLAD(2019)005-e)>

³⁵ See Canada, *Schedule to Order in Council P.C. 2019-1323* (September 2019), online: <orders-incouncil.canada.ca/attachment.php?attach=38652&lang=en> [Order in Council]. See also Chris Gill, *Ombud Independence and the Venice Principles* (Report, Canadian Ombudsperson for Responsible Enterprise, 24 May 2023), online: <core-ombuds.canada.ca/core_ombuds-ocre_ombuds/ombud_independence-independance_ombudsman.aspx?lang=eng>.

Together, these factors heighten the risk of political interference and undermine the CORE's independence from the executive branch. To operate effectively, the CORE must be able to carry out its mandate without concern that funding constraints or executive oversight will influence its priorities or findings.

Civil society groups have raised concerns that the CORE may be shut down, given the government's lack of response to inquiries on the CORE's operations and the absence of allocated funding in the 2025 federal budget.³⁶ Despite its limitations, the CORE nonetheless provides a significant mechanism for victims of human rights abuses abroad involving Canadian companies to seek remedies in the garment, mining, and oil and gas sectors.

Beyond the CORE, the sole remaining oversight mechanism is the National Contact Point (NCP), established in 2000 to promote and implement the OECD Guidelines on Multinational Enterprises for enterprises operating in or from Canada.³⁷

III. Canada's National Contact Point (NCP): Limited Oversight

Compared to the CORE, the NCP suffers from even more serious structural and procedural deficiencies, which undermine its capacity to ensure accountability and render it ill-equipped to provide meaningful remedies. If the CORE ceases to operate in any meaningful way, reliance solely on the NCP would effectively return Canada to "ground zero" in corporate human rights accountability, leaving victims without an effective avenue for redress and undermining Canada's international human rights obligations. During a 2025 House of Commons debate, when asked about the appointment of a new ombudsperson, the Minister of International Trade referred only to the NCP as Canada's commitment to further the effectiveness of OECD Guidelines.³⁸ The Minister's response signals that the government views the NCP as the primary mechanism for corporate accountability, making its effectiveness central to Canada's ability to meet its international obligations.

A. Case Study: The "Sakto" Case

In 2016, a NGO, Bruno Manser Fonds ("BMF"), filed a complaint to the NCP against the Sakto corporation for disclosure breaches. The NCP initially deemed the case substantiated and eligible for mediation. However, under significant corporate and political pressure, the NCP reversed its stance and replaced its report with a version that erased references to Sakto's misconduct. The NCP then issued a "cease and desist" letter to BMF, threatening legal action for publishing the NCP's original draft assessment.³⁹ The OECD Investment Committee ultimately ruled in 2022 that Canada's handling of the matter lacked transparency, impartiality, and predictability, recommending that the government take

³⁶ CNCA–RCRCE, *CORE complainants and civil society raise alarm as Budget 2025 leaves impacted workers and communities in the dark* (11 November 2025) (online): <cnca-rcrce.ca/2025/11/11/core-complainants-and-civil-society-raise-alarm-as-budget-2025-leaves-impacted-workers-and-communities-in-the-dark/>

³⁷ *Supra* note 1.

³⁸ Canada, Parliament, House of Commons Debates, 45th Parl, 1st Sess, Vol 152, No 030 (26 September 2025) at 2189 (Maninder Sidhu), online: <www.ourcommons.ca/Content/House/451/Debates/030/HAN030-E.PDF>.

³⁹ OECD Watch & MiningWatch Canada, *Statement regarding the Canadian NCP's mishandling of the Bruno Manser Fonds vs Sakto Group* (19 July 2018), online: <miningwatch.ca/sites/default/files/oecdwatch-miningwatch_statement_re_ncp_handling_of_bmf_vs_sakto_case_2018-07-19.pdf>.

steps to mitigate the harm caused to the NGO.⁴⁰ Canada's NCP admitted to facing "undue pressure" from Satko, which included involvement of a Member of Parliament and legal submissions made directly to Canada's Deputy Minister of Justice.⁴¹ The Satko case highlights the systemic failures in the NCP's independence, mandate, and fact-finding that continue to undermine the mechanism's legitimacy and capacity to provide recourse.

B. Canada's NCP Lacks Independence

Canada's NCP is a committee of eight federal departments⁴² housed within Global Affairs Canada (GAC) and typically chaired by a Director General from the International Trade and Investment division, which is tasked with promoting Canadian overseas investments.⁴³ In 2017, the UN Working Group on Business and Human Rights noted the NCP was perceived by stakeholders as not fully independent due to its location within a ministry focused on trade.⁴⁴ Some countries have addressed concerns over their NCP's independence and mitigated the risk of conflicts of interests by ensuring that their NCP's are not housed within a Ministry focused on economics, trade, or investment. For example, Australia's NCP structure consists of a roster of individual experts who handle complaints directly.⁴⁵

C. Canada's NCP Does Not Conduct Independent Investigation and Fact-finding

The NCP offers voluntary mediation and conflict resolution services. However, the NCP does not possess formal investigatory powers and therefore cannot compel evidence or witness testimony. Given the lack of independent investigations, the NCP does not make findings of fact on whether a company has breached the OECD Guidelines.⁴⁶ Similarly, the NCP does not make recommendations regarding a remedy for harm done.⁴⁷ In cases where a company does not voluntarily concede to having breached the OECD Guidelines, or agree to provide some form of remedy for harm done, the NCP lacks the authority to provide recourse.

D. Resulting Lack of Trust and Risk

The NCP's failure to investigate, prevent, or remedy harm has resulted in a persistent lack of confidence and trust in Canada's NCP amongst civil society and stakeholders. The UN Working Group on Business and Human Rights' 2017 country report highlighted a lack of stakeholder confidence as a

⁴⁰ "Bruno Manser Fonds vs. Sakto Group" (18 March 2021), online: *OECD Watch* <www.oecdwatch.org/complaint/bruno-manser-fund-vs-sakto-group/>.

⁴¹ *Substantiated Submission to the OECD Investment Committee concerning the Canadian NCP's handling of the complaint Bruno Manser Fonds vs. Sakto*, by Manfred Schekulin & Christine Kaufmann (Amsterdam: OECD Watch, September 22, 2021) online: <miningwatch.ca/sites/default/files/oecd-watch-substantiated-submission-vs-canadian-ncp-2021-09-22-1e.pdf>.

⁴² *Supra* note 1.

⁴³ Catherine Coumans, Canada's National Contact Point for the OECD Guidelines: An Ineffective Human Rights Mechanism (MiningWatch Canada, November 2025), online: <miningwatch.ca/sites/default/files/final_MiningWatch%20Canada%20Brief%20on%20the%20NCP%20Nov%2025%20Final.pdf>.

⁴⁴ *Ibid* at p. 3.

⁴⁵ *Ibid* at p. 3.

⁴⁶ *Ibid* at p. 2.

⁴⁷ *Ibid* at p. 2.

potential reason for the limited number of cases brought before the NCP.⁴⁸ Since its inception in 2000, only 32 complaints have been brought to the NCP.⁴⁹ The lack of public confidence was also observed by the NCP's peer reviewers in 2019, who found that a lack of formal involvement of external stakeholders in governance arrangements contributes to the perception of partiality.⁵⁰ Furthermore, Penelope Simons argues that the NCP's reliance on a non-judicial, mediation-heavy model represents a "step back" for accountability, as it lacks the independence and "teeth" required to address serious human rights abuses.⁵¹ Additionally, Amnesty International concluded that Canada's NCP is ineffective at investigating specific-instance complaints from affected communities and requires substantive reform to provide a meaningful dispute-resolution process.⁵²

Taken together, these structural and procedural shortcomings demonstrate that the NCP is an inadequate mechanism for ensuring accountability. Canada requires a robust, independent mechanism with effective investigative and remedial powers to provide meaningful avenues for redress to victims of human rights abuses involving companies under Canadian jurisdiction. Without such a mechanism, accountability gaps persist, and victims are left without effective recourse, violating Canada's obligation under Article 2 of the ICCPR and the Human Rights Committee's past recommendations.

Recommended Questions

1. Given the absence of binding human rights and environmental due diligence obligations for Canadian corporations operating abroad, what concrete measures does the State party plan to introduce to ensure that these corporations effectively identify, prevent, and address adverse human rights, environmental, and gendered impacts across their operations and supply chains?
2. What measures, both interim (pending legislative reform) and long-term, will the State party take to ensure the CORE and NCP have effective investigative and remedial powers, including the authority to compel witnesses and documents, so they can provide meaningful remedies to affected individuals and communities?
3. How will the State party ensure that the CORE and the NCP have sufficient and stable funding, staffing, and other resources to operate independently and effectively, free from political or corporate interference?
4. What timeline has the State party established for appointing a new Ombudsperson and restoring the CORE's full operational capacity?

Recommendations

⁴⁸ *Ibid* at p. 3.

⁴⁹ *Ibid* at p. 1.

⁵⁰ *Ibid* at p. 6.

⁵¹ Penelope Simons, *Developments in Canada on Business and Human Rights: One Step Forward, Two Steps Back.*" (2023) 8:1 *Business & Human Rights Journal* 109.

⁵² Amnesty International, *Canada: Briefing to the UN Committee on the Elimination of Racial Discrimination* (February 2012), at p. 24, online (pdf): <www.amnesty.ca/wp-content/uploads/imce/images/Amnesty%20International%20Submissions%20to%20CERD.pdf>.

1. The Government of Canada should enact binding human rights and environmental due diligence legislation applicable to Canadian corporations, including those operating abroad, requiring them to identify, prevent, mitigate, and address adverse impacts throughout their operations and supply chains, drawing on existing authorities, previously tabled proposals such as Bill C-262 (Corporate Responsibility to Protect Human Rights Act), and model legislation developed by civil society groups.⁵³
2. The Government of Canada should take measures to effectively grant the CORE and the NCP robust investigative and remedial authorities, including the authority to compel witnesses and documents, to ensure thorough inquiries and access to remedies for affected individuals and communities, in line with Article 2(3) of the ICCPR.
3. The Government of Canada should urgently appoint a new Ombudsperson and ensure that the office of the CORE is financially independent, and adequately staffed and resourced to resume its mandate, including addressing the backlog of complaints.
4. Pending legislative reform, the Governor in Council should appoint the CORE or the NCP as a commissioner pursuant to Part I of the Inquiries Act to immediately grant the power to compel witnesses and documents.

⁵³ *The Corporate Respect for Human Rights and the Environment Abroad Act*, *supra* note 27; and *Transparency in Supply Chains Act: A Proposed Model Bill*, (Vancouver: International Justice and Human Rights Clinic, Allard School of Law, April 2019), online: <allard.ubc.ca/sites/default/files/2021-03/TSCA_proposed_model_bill_with_cover-FINAL.pdf>.

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The International Justice & Human Rights Clinic (“IJHRC”) is a legal clinic for upper-level law students at the Peter A. Allard School of Law, University of British Columbia, Canada. The clinic addresses pressing human rights and global justice issues through hands-on work on international cases and projects.

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