



## **MiningWatch Canada submission in advance of consideration of the seventh Periodic Review of Canada by the Human Rights Committee, 145th session, March 2026**

### **Canada fails to protect human rights abused by Canadian mining companies operating overseas and fails to provide effective remedy in Canada for those whose rights have been violated by Canadian mining companies operating abroad**

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#### **1. Introduction**

MiningWatch Canada (MiningWatch)<sup>1</sup> is a federally registered non-profit organization established in Canada in 1999 by environmental, labour, and social justice groups to support Indigenous peoples and mining-affected communities in Canada and those negatively affected by Canadian mining companies operating abroad. MiningWatch functions as a coalition of 25 members including environmental, labour, international development and Indigenous peoples' organizations from all parts of Canada. The examples illustrating the points made in this submission come from 26 years of experience in providing solidarity and support to Indigenous peoples and communities defending their environmental and human rights, including civil and political rights, from multinational mining by Canadian companies.

This shadow report is provided in the context of Canada's review before the Human Rights Committee (the Committee) on the *International Covenant on Civil and Political Rights* (ICCPR).<sup>2</sup> Its focus is on provisions under Part 2, article 2, of ICCPR, in regard to the State Party's obligation under the Covenant to provide any person whose rights or freedoms, as recognized under the Covenant, are violated an effective remedy. This submission specifically

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<sup>1</sup> For more information see <https://miningwatch.ca/about-us>

<sup>2</sup> *International Covenant on Civil and Political Rights* (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR). <https://www.ohchr.org/en/instrumentsmechanisms/instruments/international-covenant-civil-and-political-rights#:~:text=1.%20Everyone%20has%20the%20right,are%20are%20established%20by%20law.>

focuses on sections in Canada's 2025 Seventh Report<sup>3</sup> (paragraphs 11-14) that respond to the Committee's request for information on measures taken by Canada to ensure that "all business enterprises domiciled" in Canada, "and/or subject to its jurisdiction, in particular mining corporations, respect Covenant rights and international standards throughout their operations, including abroad," as well as the Committee's request for information on steps taken by Canada "to guarantee access to justice for victims of human rights abuses, including those abroad, by or involving relevant companies."<sup>4</sup>

## **2. Context: Serious violations of human rights by Canadian mining companies operating overseas continue unabated – Canada denies obligation to provide remedy for those whose rights have been violated overseas**

The following section provides context for the points made in this submission. In 2023 MiningWatch was asked to testify before the Canadian House of Commons' Standing Committee on International Trade (CIIT) in regard to its study of environmental and human rights considerations regarding Canadian mining firms abroad. MiningWatch provided the committee with information on 12 Canadian mining companies, covering 18 mining projects in 16 countries spanning Asia-Pacific, Africa and Latin America, regarding allegations of human rights abuses including: killings and injuries caused by mine security and police guarding mines; sexual assaults by mine security and police guarding mines; forced evictions; threats to human and environmental rights defenders; forced labour; and environmental harm.<sup>5</sup> MiningWatch's submission provided but a sample of the cases on which MiningWatch engages. The final report of the parliamentary committee included a recommendation:

That the Government of Canada undertake a review of the authorities of, and explore all options for expanding the mandate of, the Canadian Ombudsperson for Responsible Enterprise. The goal of this review is to ensure that the Ombudsperson is able to review complaints—adequately and in a timely manner—relating to alleged violations of human rights and harm to the natural environment associated with the foreign operations of Canadian firms falling within the Ombudsperson's mandate. This review should involve consultations with relevant stakeholders.<sup>6</sup>

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<sup>3</sup> CCPR/C/CAN/7. 30 April 2025. Submitted by the Department of Canadian Heritage on behalf of Canada. Finalized in January 2025. It contains the responses of the State party to the Committee's list of issues prior to reporting (CCPR/C/CAN/QPR/7).

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FCAN%2F7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FCAN%2F7&Lang=en)

<sup>4</sup> CCPR/C/CAN/QPR/7. 24 August 2021. List of issues prior to submission of the seventh periodic report of Canada. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FCAN%2FQPR%2F7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FCAN%2FQPR%2F7&Lang=en)

<sup>5</sup> Catherine Coumans, MiningWatch Canada. 14 February 2023. *Canada's Mining Dominance and Failure to Protect Environmental and Human Rights Abroad: Brief Accompanying Testimony provided on February 6, before The House of Commons' Standing Committee on International Trade (CIIT).* <https://miningwatch.ca/sites/default/files/backgroundbriefcanadasroleinminingabuseabroadfebruary142023.pdf#:~:text=4%20The%20report%20focusses%20on,Chile%2C%20Colombia%2C%20El%20Salvador%2C%20Guatemala%2C>

<sup>6</sup> *Canadian Mining and Mineral Exploration Firms Operating Abroad: Impacts on the Natural Environment and Human Rights.* A report by the Canadian House of Commons' Standing Committee on International Trade (CIIT) was presented to the House of Commons on Monday, September 18, 2023.

<https://www.ourcommons.ca/DocumentViewer/en/44-1/CIIT/report-10/page-21>

MiningWatch is not alone in documenting the harmful impacts of Canadian mining companies operating overseas. A consortium of organizations documented human rights and environmental impacts of Canadian mining companies operating in Latin America in a report to the Inter-American Commission on Human Rights.<sup>7</sup> The report discusses 22 projects involving 20 multinational Canadian mining companies operating in nine Latin American countries. The report documents 27 cases of violations of human rights and environmental protection. Another report, by academic researchers, documents widespread violence associated with the operations of Canadian mining companies in Latin America. This report details the following incidents of violence associated with 28 Canadian mining companies: 44 deaths, 30 of which were “targeted” occurred in 11 countries; 403 injuries, 363 of which occurred during protests and confrontations, occurred in 13 countries; 709 cases of “criminalization” of mine opponents including legal complaints, arrests, detentions and charges occurred in 12 countries.<sup>8</sup>

Over the years numerous UN Committees, treaty bodies, working groups and Special Rapporteurs have raised concerns regarding alleged human rights violations of Canadian mining companies operating overseas, noting the inadequate response of Canada and making recommendations to address these ongoing allegations. For example, the Committee on the Elimination of Discrimination against Women expressed concern in 2016 about, among others:

- (a) The negative impact of the conduct of transnational companies, in particular mining corporations, registered or domiciled in the State party and operating abroad, on the enjoyment of the rights enshrined in the Convention by local women and girls;
- (b) The inadequate legal framework to hold all companies and corporations from the State party accountable for abuses of women’s human rights committed abroad;
- (c) The limited access to judicial remedies by women who are victims of human rights violations, and the absence of an effective independent mechanism with powers to investigate complaints alleging abuses by such corporations.<sup>9</sup>

There have been so many concerns raised by UN bodies over the years about serious human rights allegations against Canadian mining companies operating overseas that this unfortunate history was raised in a 2025 letter to Canada by the Special Rapporteur on the situation of human rights defenders, the Working Group on the issue of human rights and transnational corporations and other business enterprises, the Special Rapporteur on the human right to a clean, healthy and sustainable environment and the Special Rapporteur on the human rights to safe drinking water and sanitation.<sup>10</sup> The UN representatives addressed Canada regarding:

<sup>7</sup> *The impact of Canadian Mining in Latin America and Canada’s Responsibility: Executive Summary of the Report submitted to the Inter-American Commission on Human Rights*. 2014. Working Group on Mining and Human Rights in Latin America: Observatorio Latinoamericano de Conflictos Ambientales, Colectivo de Abogados José Alvear Restrepo, Due Process of Law Foundation, Centro Hondureño de Promoción para el Desarrollo Comunitario, Asamblea Nacional de Afectados Ambientales, Asociación Marianista de Acción Social y Red Muqui.

[https://www.dplf.org/sites/default/files/report\\_canadian\\_mining\\_executive\\_summary.pdf](https://www.dplf.org/sites/default/files/report_canadian_mining_executive_summary.pdf)

<sup>8</sup> Imai, Shin and Gardner, Leah and Weinberger, Sarah, *The 'Canada Brand': Violence and Canadian Mining Companies in Latin America* (December 1, 2017). Osgoode Legal Studies Research Paper No. 17/2017, Available at SSRN: <https://ssrn.com/abstract=2886584> or <http://dx.doi.org/10.2139/ssrn.2886584>

<sup>9</sup> The International Committee on the Elimination of Discrimination against Women. 2016. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/402/03/PDF/N1640203.pdf?OpenElement>

<sup>10</sup> AL CAN 2/2025. Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special

alleged acts of intimidation of the human rights defenders Ms. Mayerly López Carreño and Mr. Hernán Alberto Morantes in the context of their work to protect human rights from potential negative impacts of mining activities in the department of Santander, Colombia, in the context of the development of a project owned by Aris Mining Corporation, domiciled in Canada, and the United Arab Emirates state-owned company MDC Industry Holding Company LLC.<sup>11</sup>

These UN representatives specifically noted the persistent nature of these types of allegations that have been raised with Canada over many years:

Concerns as to threats, intimidation, harassment and retaliation against human rights defenders denouncing and raising concerns about the negative human rights and environmental impacts of Canadian extractive companies abroad have previously been raised with your Excellency's Government by various Special Procedures mandate holders on multiple occasions (see CAN 1/2024, CAN 4/2023, CAN 2/2023, CAN 5/2020, CAN 4/2020 and CAN 2/2017). We thank your Excellency's Government for the responses received to these communications, however, **we again express serious concern at the repeated nature of these allegations across multiple jurisdictions.** [emphasis added]<sup>12</sup>

**In order to better understand the persistence of alleged human rights violations caused or contributed to by Canadian mining companies operating overseas, as well as the lack of an effective response by Canada - in particular in regard to providing effective remedy - it is useful to consider one more recent case.**

On 22 April 2024, the following UN bodies wrote to Canada: Mandates of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the sale, sexual exploitation and sexual abuse of children and the Special Rapporteur on violence against women and girls, its causes and consequences.<sup>13</sup>

The communication was in regard to a gold mine located in the Tarime District of Mara Region in Tanzania that is majority owned, through subsidiaries, by Toronto-based Barrick Mining (Barrick). The UN bodies allegations related to:

human rights abuses committed by security forces, including private security contractors, namely SGA Security and Nguvu Moja and public security forces assigned, and paid, to secure the North Mara mine. The allegations include international human rights law abuses including killings and security-related deaths; assaults, torture and other cruel, inhuman or degrading treatment or punishment

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Rapporteur on the human right to a clean, healthy and sustainable environment and the Special Rapporteur on the human rights to safe drinking water and sanitation. 6 March 2025.

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> AL CAN 3/2024. 22 April 2024.

<https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=28908>

(including the health and well-being of children, including infants, exposed to tear gas and ‘sound bomb’ attacks and at risk of long-term or permanent injury, and death); arbitrary arrest and detention; sexual abuse and violence against women and girls, some of which may amount to international crimes.<sup>14</sup>

In its response of 20 June 2024 Canada<sup>15</sup> bluntly states that it “**does not have international human rights legal obligations outside its territory and jurisdiction**” [emphasis added].<sup>16</sup>

Canada goes on to reiterate its usual response to persistent allegations made against Canadian mining companies operating overseas:

The Government of Canada expects all Canadian companies active abroad to abide by all relevant laws, to respect human rights, to operate transparently, and in consultation with host governments and local communities, and to work in a socially and environmentally responsible manner that is consistent with internationally respected guidelines on RBC. This includes the *UN Guiding Principles on Business and Human Rights* and the *OECD Guidelines for Multinational Enterprises*.<sup>17</sup>

Note that, in addition to stating definitively that Canada does not accept that it has human rights obligations outside its territory, Canada also uses the word “expects” very specifically when it lists what Canadian companies should do when operating overseas. Canada “expects” that its companies uphold particular international standards, but Canada does not “require” or “mandate” that they do so. As long as this is the case, Canada will continue to fail to protect human rights violated by Canadian mining companies operating overseas and continue to fail to provide effective remedy in Canada for those whose rights have been violated by Canadian mining companies operating abroad.

### **3. Canada’s Weak Non-Judicial Complaints Mechanisms and Inconsistent Judicial History in Transnational Litigation Cases**

In its concluding observations to Canada’s sixth periodic review, in 2015, the Committee noted that it was:

concerned about allegations of human rights abuses by Canadian companies operating abroad, in particular mining corporations, and about the inaccessibility to remedies by victims of such violations. The Committee regrets the absence of an effective independent mechanism with powers to investigate complaints alleging abuses by such corporations that adversely affect the enjoyment of the human rights of victims, and of a legal framework that would facilitate such complaints (art. 2). The State party should (a) enhance the effectiveness of existing mechanisms to ensure that all Canadian corporations under its jurisdiction, in particular mining corporations, respect human rights standards when operating abroad; (b) consider establishing an independent mechanism with powers to investigate human rights

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<sup>14</sup> *Ibid.*

<sup>15</sup> Responses by the Government of Canada to the Joint Communication from Special Procedures AL CAN 3/2024 of 22 April 2024. <https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=38484>

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

abuses by such corporations abroad; and (c) develop a legal framework that affords legal remedies to people who have been victims of activities of such corporations operating abroad.<sup>18</sup>

In the Committee's list of issues for this seventh periodic review the Committee noted:

In the light of the Committee's previous concluding observations (para. 6), please report on any measures taken to ensure that all business enterprises domiciled in the territory of the State party and/or subject to its jurisdiction, in particular mining corporations, respect Covenant rights and international standards throughout their operations, including abroad. Please include information about measures taken to ensure effective investigation of human rights violations by or involving relevant companies, including about the mandate and jurisdiction of the Canadian Ombudsperson for Responsible Enterprise. Please also describe steps taken to guarantee access to justice for victims of human rights abuses, including those abroad, by or involving relevant companies.<sup>19</sup>

Canada's response of 30 April 2025<sup>20</sup> discusses its two non-judicial mechanisms, the National Contact Point for the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (NCP) and the Canadian Ombudsperson for Responsible Enterprise (CORE), installed in 2019, as well as one legal case.<sup>21</sup>

**It is noteworthy that Canada's response omits any mention of the fact that the CORE has been without a full-time Ombudsperson since the end of the first Ombudsperson's five year term, on 1 May 2024.** An Interim Ombudsperson was installed on 21 May 2024 for a one-year term. Although there were ongoing cases and new cases continued to come into the office, the year ended with little apparent progress on these cases,<sup>22</sup> other than one case that was dismissed. Since 20 May 2025 the office has not had an Ombudsperson and, while the office remains staffed and new cases continue to be submitted, no cases can progress through the processing stages without an Ombudsperson's approval.<sup>23</sup>

**The sections below discuss the current status of Canada's response to the obligation to provide remedy for those whose rights have been violated by the operations of Canadian companies operating abroad.**

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<sup>18</sup> UN Human Rights Committee, 13 August 2015. *Concluding observations on the sixth periodic report of Canada*, UN Doc CCPR/C/CAN/CO/6 at para 6. <https://docs.un.org/en/CCPR/C/CAN/CO/6>

<sup>19</sup> International Covenant on Civil and Political Rights. 24 August 2021. List of issues prior to submission of the seventh periodic report of Canada. CCPR/C/CAN/QPR/7.

<https://digitallibrary.un.org/record/3937058?ln=en&v=pdf>

<sup>20</sup> CCPR/C/CAN/7. 30 April 2025. Submitted by the Department of Canadian Heritage on behalf of Canada. Finalized in January 2025. It contains the responses of the State party to the Committee's list of issues prior to reporting (CCPR/C/CAN/QPR/7).

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FCAN%2F7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FCAN%2F7&Lang=en)

<sup>21</sup> *Nevsun Resources Ltd. v. Araya*, 2020 SCC 5.

<sup>22</sup> MiningWatch has maintained contact with complainants in regard to multiple files that were accepted under the term of the first Ombudsperson, but which did not progress after that term ended 20 May 2024.

<sup>23</sup> Personal communication with deputy Ombudsperson Terrence Cowl and CORE staff, 6 November 2025.

## A. Canada's Non-Judicial Complaints Mechanisms

**National Contact Point** - Canada has had a National Contact Point for the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (NCP) since 2000. Some 32 complaints have been brought to the Canadian NCP. Of these 32 complaints 23 have been brought against Canadian mining multinationals. MiningWatch Canada has followed the NCP since its inception and has brought or supported seven cases. However, we have stopped using the office as its mandate, guidelines and processes are not only ineffective in addressing the harms complainants have endured, but the process itself, through its ineffectiveness and the costs it imposes on complainants, contributes to deepening the harm complainants experience.

Although MiningWatch no longer participates in bringing cases to the NCP, we have continued to: assess the NCP; provide regular review comments on revisions of its guidelines<sup>24</sup>; participate in the NCP's peer review process<sup>25</sup>; and support OECD Watch in submitting a Substantiated Submission to the OECD Investment Committee.<sup>26</sup> Over its 25 year history the NCP has not addressed even the most basic issues that have been repeatedly raised, such as its failure to include civil society as a social partner, alongside business and labour.

Substantive concerns related to the NCP make it an ineffective human rights mechanism. These concerns include:

- Canada's NCP is not independent of Government
- Canada's NCP does not conduct independent investigations of complaints
- Canada's NCP does not make findings of fact about whether a company has breached the OECD Guidelines
- Canada's NCP does not make recommendations regarding remedy for harm done<sup>27</sup>
- Loss of trust in the NCP's impartiality, exemplified by the Sakto case.

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<sup>24</sup> Catherine Coumans. October 2020. *Canada's National Contact Point: Long Overdue for an Overhaul*. Prepared in the context of 2020-2021 NCP consultations. MiningWatch Canada.

[https://miningwatch.ca/sites/default/files/brief\\_on\\_ncp\\_reform\\_october\\_7\\_2020.pdf](https://miningwatch.ca/sites/default/files/brief_on_ncp_reform_october_7_2020.pdf); Catherine Coumans and Marian Ingrams. 2022. *Proposed Revisions to National Contact Point Procedures again fall short of necessary reforms*. OECD Watch and MiningWatch Canada. May. [https://miningwatch.ca/sites/default/files/oecdwatch-miningwatch\\_statement\\_re\\_ncp\\_handling\\_of\\_bmf\\_vs\\_sakto\\_case\\_2018-07-19.pdf](https://miningwatch.ca/sites/default/files/oecdwatch-miningwatch_statement_re_ncp_handling_of_bmf_vs_sakto_case_2018-07-19.pdf)

<sup>25</sup> MiningWatch Canada. 23 January 2018. *Peer Review of the Canadian National Contact Point on the OECD Guidelines for Multinational Enterprises*.

<https://miningwatch.ca/sites/default/files/miningwatchcanadasubmissiontoncpeerreviewjanuary2018.pdf>

<sup>26</sup> OECD Watch. 22 September 2021. *Substantiated Submission to the OECD Investment Committee concerning the Canadian NCP's handling of the complaint Bruno Manser Fonds vs. Sakto*.

<https://miningwatch.ca/sites/default/files/oecd-watch-substantiated-submission-vs.-canadian-ncp-2021-09-22-1e.pdf>; OECD Watch and MiningWatch Canada. 19 July 2018. *Statement from OECD Watch and MiningWatch Canada regarding the Canadian NCP's improper handling of the OECD Guidelines specific instance Bruno Manser Fonds vs Sakto Group*. [https://miningwatch.ca/sites/default/files/oecdwatch-miningwatch\\_statement\\_re\\_ncp\\_handling\\_of\\_bmf\\_vs\\_sakto\\_case\\_2018-07-19.pdf](https://miningwatch.ca/sites/default/files/oecdwatch-miningwatch_statement_re_ncp_handling_of_bmf_vs_sakto_case_2018-07-19.pdf)

<sup>27</sup> For more detail see, Catherine Coumans. 2025. *Canada's National Contact Point for the OECD Guidelines: An Ineffective Human Rights Mechanism*. MiningWatch Canada. November.

[https://miningwatch.ca/sites/default/files/final\\_MiningWatch%20Canada%20Brief%20on%20the%20NCP%20Nov%202025%20Final.pdf](https://miningwatch.ca/sites/default/files/final_MiningWatch%20Canada%20Brief%20on%20the%20NCP%20Nov%202025%20Final.pdf)

A case brought in 2016 by the Swiss-based NGO the Bruno Manser Fonds (BMF) against the Ottawa-based Sakto Group eventually led to a successful complaint against the Canadian NCP, called a Substantiated Submission, being filed with the OECD Investment Committee<sup>28</sup> in 2021 by OECD Watch with support from MiningWatch Canada. The Sakto case exemplifies loss of trust in the NCP's impartiality as the NCP took unusual steps to harm the reputation of the complainant, the NGO BMF, while protecting the interests of the Sakto Group. The NCP also used the Canadian government's Department of Justice to try to intimidate the European organizations, BMF and OECD Watch, through cease and desist letters, in order to impede their exposure of the case. MiningWatch Canada received a similar cease and desist letter from the NCP itself.<sup>29</sup> To date, the NCP has not taken corrective action to reverse the harm done to BMF.

It is significant that there is nothing in the OECD Guidelines "Procedures" for NCPs<sup>30</sup> that restricts the Canadian NCP from addressing these deficiencies. In fact, NCPs in other countries have addressed these concerns and become effective mechanisms that have also led to the provision of remedy for those harmed.<sup>31</sup> The Canadian NCPs refusal over 25 years to address its failure to become an effective and impartial mechanism that may provide remedy for human rights violations must be recognized as a failure of political will.

***Canadian Ombudsperson for Responsible Enterprise (CORE)*** – As noted above, the CORE has been without a full-time Ombudsperson since May 2024 and has been without even an interim Ombudsperson since May 2025. Although as many as 32 cases<sup>32</sup> had been admitted for review, and, according to Canada's 2025 submission to the Committee, 20 were active as of September 2023, and at least seven were undergoing independent investigations,<sup>33</sup> none of these cases can progress without an Ombudsperson in place. Yet the office continues to accept new cases through its intake portal.

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<sup>28</sup> OECD Watch. 22 September 2021. *Substantiated Submission to the OECD Investment Committee concerning the Canadian NCP's handling of the complaint Bruno Manser Fonds vs. Sakto.*

<https://miningwatch.ca/sites/default/files/oecd-watch-substantiated-submission-vs-canadian-ncp-2021-09-22-1e.pdf>

<sup>29</sup> OECD Watch and MiningWatch Canada. 19 July 2018. *Statement from OECD Watch and MiningWatch Canada regarding the Canadian NCP's improper handling of the OECD Guidelines specific instance Bruno Manser Fonds vs Sakto Group.* [https://miningwatch.ca/sites/default/files/oecdwatch-miningwatch\\_statement\\_re\\_ncp\\_handling\\_of\\_bmf\\_vs\\_sakto\\_case\\_2018-07-19.pdf](https://miningwatch.ca/sites/default/files/oecdwatch-miningwatch_statement_re_ncp_handling_of_bmf_vs_sakto_case_2018-07-19.pdf)

<sup>30</sup> See starting on page 58 of the OECD Guidelines.

[https://www.oecd.org/content/dam/oecd/en/publications/reports/2023/06/4\\_oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct\\_a0b49990/81f92357-en.pdf](https://www.oecd.org/content/dam/oecd/en/publications/reports/2023/06/4_oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct_a0b49990/81f92357-en.pdf)

<sup>31</sup> Catherine Coumans. 2025. *Canada's National Contact Point for the OECD Guidelines: An Ineffective Human Rights Mechanism.* MiningWatch Canada. November.

[https://miningwatch.ca/sites/default/files/final\\_MiningWatch%20Canada%20Brief%20on%20the%20NCP%20Nov%202025%20Final.pdf](https://miningwatch.ca/sites/default/files/final_MiningWatch%20Canada%20Brief%20on%20the%20NCP%20Nov%202025%20Final.pdf)

<sup>32</sup> Catherine Coumans. 4 September 2025. *Letter to the Minister of International Trade: Canada's Commitment to a Strong Canadian Ombudsperson for Responsible Enterprise (CORE).* MiningWatch Canada.

<https://miningwatch.ca/blog/2025/9/4/letter-minister-international-trade-canadas-commitment-strong-canadian-ombudsperson>

<sup>33</sup> CCPR/C/CAN/7. 30 April 2025. Submitted by the Department of Canadian Heritage on behalf of Canada. Finalized in January 2025. It contains the responses of the State party to the Committee's list of issues prior to reporting (CCPR/C/CAN/QPR/7).

It is a concern that Canada's 2025<sup>34</sup> submission to the Committee does not mention the fact that, at the time of submission, the CORE office no longer had an Ombudsperson with a five-year mandate, but rather an interim Ombudsperson with only a one-year mandate. It is equally a concern that the office has now been without an Ombudsperson since May 2025.

The CORE addresses a number of longstanding concerns with the NCP that are significant to ensure an effective human rights mechanism with the possibility of providing remedy. These important features of the CORE include:

- The CORE could, and did, commission **independent investigations** of allegations of violations of human rights
- The CORE could, and in one finalized case, did, make a **finding of fact** that human rights had been violated<sup>35</sup>
- The CORE could, and in one finalized case, did, recommend that the Department of Foreign Affairs, Trade and Development withdraw any trade advocacy support to the company that it may be providing and recommended that Export Development Canada refuse to provide future financial support, if requested, until the company had complied with the CORE's recommendations, which included addressing the human rights abuse to which the company's mining project had contributed.<sup>36</sup>

The Ombudsperson's office needs to be maintained and strengthened. When the office was created in 2018, the Government of Canada committed to an office that would be **independent of government** and would have the **powers to compel witness testimony and documentary evidence**. These commitments need to be fulfilled.

## **B. Access to Judicial Remedy in Transnational Litigation Cases**

Canadian courts present significant hurdles for foreign plaintiffs seeking judicial remedy for alleged harms endured as a result of the activities of Canadian companies, including mining companies, operating overseas.

Of ten cases<sup>37</sup> filed in Canada by overseas plaintiffs against Canadian mining companies, seven<sup>38</sup> alleged violence by private and public mine security against local community members including shootings, beatings, killings, torture, maiming, and rape. To date, four

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[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FCAN%2F7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FCAN%2F7&Lang=en)

<sup>34</sup> *Idem.*

<sup>35</sup> CORE. March 2024. *Final report: Investigation for a complaint filed by a coalition of 28 organizations about the activities of Dynasty Gold Corporation.* [https://core-ombuds.canada.ca/core\\_ombuds-ocre\\_ombuds/news-nouvelles/complaint-dynasty-gold-plainte.aspx?lang=eng](https://core-ombuds.canada.ca/core_ombuds-ocre_ombuds/news-nouvelles/complaint-dynasty-gold-plainte.aspx?lang=eng)

<sup>36</sup> *Ibid.*

<sup>37</sup> Recherches Internationales Quebec v. Cambior Inc.; Ramírez v. Copper Mesa Mining Corporation; Association canadienne contre l'impunité (ACCI) v. Anvil Mining Ltd.; Choc v. Hudbay; Chub v. Hudbay; Caal v. Hudbay; García v. Tahoe Resources Inc.; Araya v. Nevsun Resources Ltd.; Sophia Matiko John v. Barrick Gold Corporation; Ester Nyangi Petro v. Barrick Gold Corporation.

<sup>38</sup> Ramírez v. Copper Mesa Mining Corporation; Choc v. Hudbay; Chub v. Hudbay; Caal v. Hudbay; García v. Tahoe Resources Inc.; Sophia Matiko John v. Barrick Gold Corporation; Ester Nyangi Petro v. Barrick Gold Corporation.

of these cases have resulted in out-of-court settlements.<sup>39</sup> Three were dismissed, including two related cases against Barrick Mining, which are now under appeal.<sup>40</sup>

The most recent cases were brought by Tanzanian Kuria plaintiffs against Barrick Mining (previously Barrick Gold Corp.). Between October 15 - 17, 2024, hearings were held in the Ontario Superior Court of Justice in Toronto in response to Barrick's plea to have the two filed cases "dismissed or permanently stayed on the basis that this Court lacks jurisdiction or, alternatively, on the basis of the doctrine of *forum non conveniens*." On November 26, 2024, the two cases were dismissed. Justice E.M. Morgan found that the "Court lacks jurisdiction to determine the matters at issue." Noting further that "[i]f the Court had jurisdiction, the actions would be permanently stayed on the basis of *forum non conveniens*."<sup>41</sup>

Barrick's counsel had argued that Canada is the "wrong jurisdiction" to hear the cases, although Barrick is headquartered in Canada, because "Barrick's small corporate office in Toronto has no connection to or involvement in the management or operation of the North Mara Gold Mine."<sup>42</sup>

## **Questions**

1. Does Canada accept that it has a duty to protect human rights, including of people harmed by the operations of Canadian companies operating overseas?
2. Does Canada accept that it has international human rights legal obligations outside its territory and jurisdiction?
3. Does Canada accept that it has a duty to provide remedy in Canada for people who have been harmed by Canadian companies operating overseas?

## **Recommendations**

1. In order to ensure that people whose rights have been violated by the operations of a Canadian company operating overseas have access to a non-judicial mechanism that is effective, financially independent, can independently investigate complaints and recommend remedy, the CORE must be maintained. A new Ombudsperson must be appointed and, in order to ensure that the CORE is finally granted the powers to compel witnesses and evidence (as committed to by the Government of Canada in 2018), the Governor in Council should appoint the CORE as a commissioner pursuant to Part I of Canada's Inquiries Act.
2. In order to ensure that people whose rights have been violated by the operations of a Canadian company operating overseas have access to judicial remedy in Canada, the Government of Canada must enact binding human rights and environmental due diligence legislation applicable to Canadian corporations operating abroad,

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<sup>39</sup> Choc v. Hudbay; Chub v. Hudbay; Caal v. Hudbay; García v. Tahoe Resources Inc.

<sup>40</sup> Catherine Coumans. 2025. Reflections on Legal Proceedings in Canada against Barrick Gold Regarding the North Mara Gold Mine in Tanzania. MiningWatch Canada. <https://www.barricktrial.ca/wp-content/uploads/2025/05/2025-Reflection-on-Ontario-Court-Arguments.pdf>

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*

requiring them to identify, prevent, mitigate, and address adverse impacts throughout their operations and supply chains, drawing on previously tabled proposals such as Bill C-262 (Corporate Responsibility to Protect Human Rights Act), and model legislation developed by civil society groups.<sup>43</sup> Such legislation includes a direct statutory cause of action that establishes civil liability allowing foreign plaintiffs who allege harm caused or contributed to by a Canadian company, or its global subsidiaries and business relations, to have their case considered on its merits in a Canadian court.

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<sup>43</sup> Canadian Network on Corporate Accountability, *The Corporate Respect for Human Rights and the Environment Abroad Act*, 2021. <https://cnca-rcre.ca/model-legislation-due-diligence>