

Subject: Response to CORE's *Risk Assessment of Non-Review Based Country Visits*

February 9, 2022

Dear Sharmala Naidoo and Sheri Meyerhoffer,

The CNCA's membership discussed the CORE's draft *Risk Assessment of Non-Review Based Country Visits* in late 2021, but we have not yet had an opportunity to communicate our conclusions to you.

Apologies for our unusual delay in responding. As you know, the CNCA operates with very limited resources. In recent months we, like many others, have also been facing additional challenges – reduced staff and network member staff capacity due to family illness, pandemic-related school closures and urgent requests from global partners. We thank you for your understanding.

Before providing some high-level feedback below, we would like to explain why we will not be providing more substantive feedback. As we have [communicated to your office on multiple occasions](#), the CORE does not have the minimum powers required to be an effective recourse mechanism for people harmed by Canadian businesses. As highlighted in the recent [International Human Rights Parliamentary subcommittee \(SDIR\) study](#), UN officials, human rights experts and the Government of Canada's own commissioned expert agree: to be effective the CORE needs the power to compel documents and testimony. Ms. Meyerhoffer has acknowledged that the CORE would have a stronger impact if it had the power to compel, and is on record indicating that she would press for those powers (see, for example, <https://financialpost.com/pmn/business-pmn/canada-companies-watchdog-to-press-trudeau-for-expanded-powers>). To our network's disappointment, the lack of powers continues to undermine the CORE's potential impact.

Our membership has reached the conclusion that we should not use our limited resources to support the functioning of the CORE at present. We do not believe that the CORE, as currently structured, will help impacted communities access remedy when they are harmed by Canadian businesses.

We reached this conclusion based on the following considerations:

- Impacted communities face [risks of retaliation](#) by approaching the CORE. Since the office is not fit for purpose, workers and community human rights defenders approaching the CORE would face risks without a real opportunity for remedy.
- The CORE is nearing three years in operation without any positive result for workers or community human rights defenders.
- There is no indication that the Government of Canada will soon move to provide the CORE with the investigatory powers it promised, and Ms. Meyerhoffer appears to have abandoned her efforts to press for the power to compel documents and testimony.
- Civil society is concerned by the lack of transparency with which the CORE is operating. For more information, please see our response to your request for quarterly meetings.
- The CNCA has limited resources and is not able to participate in all consultation requests.

Turning to the Risk Assessment Protocols, below you will find some high-level feedback from our network on the draft country-visit protocols. Some individual CNCA members may also be in contact with substantive feedback in the near term.

High-level feedback on the Risk Assessment Protocols:

- We acknowledge that the CORE responded to our February 2020 [recommendation](#) to develop risk-assessment protocols prior to country visits.
- We recognize that robust risk-assessment protocols are needed, because the CORE's presence can lead to harm, especially to people made more vulnerable by business operations in high-conflict areas or sectors.
- We appreciate that the draft protocols demonstrate that the CORE took this exercise seriously and incorporated some of the elements highlighted in our recommendations.
- We wish to express our ongoing concern that the draft guide fails to integrate some of our recommendations from February 2020.¹ Two concrete omissions are:
 - o The guide should explicitly state that any such visits by the CORE will be about *protecting and promoting the human rights* of affected communities, workers and organizations at risk, not only about *minimizing* risks to them. This would preclude the CORE from accepting site-visit requests from corporations, especially where there has not been prior consultation with impacted communities and civil society. We remind you that the CORE [previously planned a visit](#) without such consultation in 2020.
 - o The guide should mention CORE's intention to consult with Canadian civil society actors, including, at minimum, the members of the CNCA and of regional working groups (such as the Americas Policy Group, Asia-Pacific Working Group and Africa Canada Forum) as these coalitions have long-standing relationships with impacted communities on the ground and an understanding about the risks they face.

Going forward, the CNCA's collective efforts around the CORE will focus on

- responding to information requests from affected community human rights defenders and workers concerning the role of the CORE and the office's limitations;
- continuing to press the Government of Canada to provide the CORE with the powers it announced in 2018, that are essential to the functioning and credibility of the office; and
- providing advice to the Government of Canada, the CORE, and others in an effort to reduce harm to impacted communities and workers as a result of the CORE's operations, publications or country visits.

¹ <https://cnca-rcrce.ca/site/wp-content/uploads/2021/01/Letter-re-CORE-visit-to-South-America.-02.2020.pdf> "We strongly recommend that you develop protocols for this kind of visit that include at minimum that you consult with key civil society stakeholders, particularly in-country as well as in Canada, in the planning of any visit to countries affected by Canadian corporate activity, to determine (among other necessary considerations):

- The circumstances under which such a visit could be helpful to protect and promote the human rights of affected communities, workers and organizations at risk;
- Whether there are factors in such a visit - such as timing and purpose - that could increase the risk to vulnerable people and peoples, and whether they could be mitigated;
- The degree of transparency or confidentiality necessary to protect the human rights of vulnerable people, for instance with respect to where you travel, the stated purpose, who you will meet;
- Whether within such a tour, a visit to a specific community or project site would or would not be helpful, including securing prior consent if the purpose is to seek information from communities."

We hope that your office will resume actively advocating for powers, or will receive the powers needed to effectively investigate abuses and support impacted people. We look forward to reconsidering our engagement with the CORE when that happens.

Best regards,

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Canadian Network on Corporate Accountability

Catherine Coumans
Co-manager, Mining Watch Canada
CNCA Steering Committee representative

Karen Hamilton
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