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Canadian Network for Corporate Accountability

TAKING STOCK

ACCOUNTABILITY AND THE OVERSEAS OPERATIONS OF CANADIAN MULTINATIONALS

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Formed in 2005, the Canadian Network for Corporate Accountability (CNCA) unites over 40 human rights, environmental, labour, faith, international development and grassroots solidarity groups, collectively representing over 3 million Canadians, to advocate for federal laws and regulations that will ensure Canadian corporations respect human rights and the environment when doing business around the world.

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EXECUTIVE SUMMARY

This paper assesses the policy and legal framework in Canada to hold multinational corporations to account for human rights and environmental harms caused overseas. It focuses on three key issues: binding standards, an ombudsperson and the state-business nexus. The paper concludes that Canadian policy and legal developments have failed to keep pace with international standards, initiatives in leading jurisdictions and civil society proposals.

Binding standards: While the Canadian government recognizes the value of human rights due diligence, it relies on companies to voluntarily adopt this practice. A government commitment to introduce legislation mandating labour rights due diligence remains unfulfilled.[1]

Ombudsperson: In 2019 the Canadian government created the Canadian Ombudsperson for Responsible Enterprise (CORE). Structural and functional shortcomings undermine the office's credibility. The ombudsperson post is currently vacant and the office's future is unclear.

State-business nexus: Canada lacks enforceable mechanisms to condition corporate eligibility for government services on compliance with human rights and environmental norms. The government departments and agencies that support corporations lack transparency regarding their operations and decision-making processes.

To remedy these failings, the Canadian Network for Corporate Accountability calls on the Canadian government to:

- implement comprehensive human rights and environmental due diligence legislation. As a first step towards comprehensive legislation, immediately adopt legislation requiring companies to conduct due diligence to prevent forced labour and child labour throughout their supply chains;
- publish the results of its 2024 review of the CORE, appoint an ombudsperson and grant the office the independence and investigatory powers required to realize its potential; and
- adopt measures that improve transparency regarding the operation of government departments and agencies that provide support to companies, and that condition such support on corporate respect for human rights and the environment.

INTRODUCTION

This paper evaluates the policy and legal framework in Canada to hold multinational corporations to account for human rights and environmental harms caused overseas. It does so in a context of global economic and geopolitical upheaval, in which the Canadian government is focused on developing new trade and investment partners, fast-tracking major infrastructure projects and addressing security concerns. A key government priority concerns the development of critical mineral supply chains, both at home and abroad. Under Canada's presidency in 2025, the G7 adopted a Critical Minerals Action Plan to advance "digital and energy secure economies." Member states agreed to promote private sector investment in critical minerals, including by leveraging public finance.

This paper examines three issues prioritized by the Canadian Network for Corporate Accountability (CNCA) since its formation: binding human rights and environmental standards, an ombudsperson and the state-business nexus. For each issue, the document identifies CNCA proposals and assesses relevant policy and legal developments in Canada. The paper concludes with policy recommendations that protect rights-holders and the environment from corporate harm. As the Canadian government expands its partnerships with companies in high-risk sectors, these policies will help to ensure that it meets its obligations under international law.

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STATE OF PLAY

1. Binding Standards

A. CNCA PROPOSALS

Since its inception, the CNCA has advocated for the adoption of federal legislation that:

- mandates corporate respect for international human rights law and environmental norms overseas;
- creates effective enforcement mechanisms; and
- provides for remedy when harm occurs.[2]

In 2021, the network published model legislation that requires Canadian multinational companies to conduct human rights and environmental due diligence in their global operations.[3] The legislation:

- establishes a corporate duty to prevent adverse human rights impacts and environmental damage outside Canada;
- mandates companies to discharge this duty through the implementation of human rights and environmental due diligence procedures;
- requires companies to consult with rights-holders in the development and implementation of these procedures;
- creates a cause of action for injuries that result from companies' failure to discharge their duty;
- allows interested parties, including civil society organizations, to file suit if a company fails to develop and implement adequate due diligence procedures;
- creates a commissioner to ensure that companies publish annual reports; and
- applies to companies incorporated in Canada; companies that have a place of business in Canada; and companies that sell goods or services in Canada and have a physical presence or otherwise carry out business in Canada.

B. POLICY AND LEGAL DEVELOPMENTS

In 2024 the *Competition Act* was amended to address "greenwashing:" the business practice of making false or misleading claims about environmental performance, including with respect to climate change. However, the greenwashing provisions were weakened the following year. Changes include barring third parties, such as civil society organizations, from bringing claims regarding alleged cases of greenwashing before the Competition Bureau.

In 2023, the *Fighting Against Forced Labour and Child Labour in Supply Chains Act* was adopted by Parliament. The legislation requires some companies to publish annual reports describing any efforts they make to prevent and reduce the risk that forced and child labour are involved in the production of goods in their supply chains. Government institutions that produce, purchase or distribute goods are also subject to the law. The law does not: prohibit the use of forced or child labour; require companies or government entities to take action to reduce the risk of using such labour; or hold these actors accountable when they do so. In July 2020, Canada amended its Custom Tariff legislation to prohibit the import of goods produced using forced labour; however, the ban is rarely enforced.[4]

Canada's 2022 Responsible Business Conduct Abroad strategy sets out the government's expectation that Canadian companies "abide by all relevant laws, [...] respect human rights in their operations, and [...] adopt internationally recognized best practices and internationally respected guidelines on RBC such as the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises." The strategy lacks mechanisms to enforce this expectation, beyond the threat that the Trade Commissioner Service *may* withdraw its services if a company fails to comply with RBC standards (emphasis added).

C. HOW THESE DEVELOPMENTS STACK UP

Canadian initiatives are deficient compared to CNCA model legislation, UN guidance and measures adopted in leading jurisdictions.

The UN Guiding Principles provide that in order to meet their duty to protect human rights, states should:

- enforce laws that require business enterprises to respect human rights; and
- ensure, through judicial, administrative, legislative or other appropriate means, that when abuses occur within their territory and/or jurisdiction, those affected have access to effective remedy.

The UN Working Group on business and human rights recommends that states adopt legislated requirements that companies exercise human rights due diligence. Following a 2017 visit to Canada, the group recommended that the federal government:

- explore ways and means to incentivize human rights due diligence by companies, including through regulations on mandatory due diligence and disclosure; and
- take measures to remove well-known barriers in access to judicial remedies, including for foreign plaintiffs, rather than wait for the courts to develop principles.

Various significant international institutions have further elaborated states' responsibility to prevent human rights and environmental harms by the private sector. Key developments include:

- in July 2025, an International Court of Justice advisory opinion affirmed states' duty under international law to prevent climate harms, including their duty to regulate private actors; and[5]
- in 2022, the 52 states that endorse the OECD Guidelines on Responsible Business Conduct – which include Canada and many of its largest trading partners – officially recommended that countries establish legal and regulatory frameworks including mandatory human rights due diligence.[6]

Other governments have followed this guidance, imposing enforceable obligations on multinational corporations, such as:

- *Due diligence legislation:* Beginning in 2017, several European states adopted corporate due diligence laws. In 2024, a regional standard was established through the EU Corporate Sustainability Due Diligence Directive. In 2025, due diligence legislation was tabled in Colombia and South Korea. While details vary, these laws include enforceable requirements that companies: undertake human rights due diligence; publish the results; and avoid / mitigate adverse impacts. Some due diligence laws also include a cause of action for rights-holders who suffer harm linked to corporate activity.
- *Forced labour legislation:* In 2024 the EU adopted a regulation that prohibits the import, sale or export of goods made with forced labour. The regulation covers the entire lifecycle of a product and its components. The provision mandates investigations to assess compliance and includes sanctions regarding products made with forced labour.

2. Ombudsperson

A. CNCA PROPOSALS

The CNCA has long advocated for the establishment of an independent ombudsperson empowered to investigate allegations of human rights and labour rights violations by Canadian companies overseas and to publish the results of its investigations. A recommendation to create such an office was included in the 2007 Advisory Group Report to the National Roundtable process,[7] which was co-developed by CNCA members and endorsed by the network.

In 2016, the CNCA published model legislation to create an ombudsperson for the overseas extractive sector. This legislation:

- designates the ombudsperson as an Officer of Parliament, independent from the government;
- mandates the ombudsperson to investigate complaints concerning alleged harm or significant risk of harm, where 'harm' is defined as a violation of international human rights, labour and/or environmental norms;

- authorizes the ombudsperson to seek court orders for document production, interviews and/or search warrants;
- requires the ombudsperson to issue a report with their opinion on each complaint, their reasons and any recommendations; and
- authorizes the ombudsperson to make recommendations to any person and to any body of the federal government, including recommending the withdrawal of government support, subsidy, promotion or protection. Government actors must implement these recommendations. In the alternative, they must provide reasons for their failure to do so, which are reviewable in federal court.

B. POLICY AND LEGAL DEVELOPMENTS

In 2019, the government created the Canadian Ombudsperson for Responsible Enterprise (CORE). The CORE is mandated to review complaints regarding alleged human rights abuse arising from the overseas operations of Canadian extractive and garment companies. The ombudsperson may make recommendations to the minister of international trade regarding a company's eligibility for government support if the company does not act in good faith during the CORE review process. At the conclusion of a review, the ombudsperson may make additional recommendations.

The government broke a 2018 commitment to provide the CORE with the power to compel document production and testimony. In addition, the office lacks independence from government. The ombudsperson is designated as a 'special adviser' to the minister for international trade, and both the ombudsperson and their staff are civil servants at Global Affairs Canada. This arrangement creates the potential for real and/or perceived government interference in CORE operations.

In fiscal year 2024, 36 complaints were under review by the CORE and the office had completed just one investigation.[8] In September 2024, the Canadian government launched a six-month review of the CORE. The results of that process have yet to be published. The ombudsperson post has been vacant since May 2025 and the office's future remains unclear.

The other grievance mechanism established by the Canadian government is the National Contact Point (NCP), which receives complaints regarding allegations of non-compliance with the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct. In contrast to the NCP mechanisms established by several other jurisdictions, the Canadian NCP lacks independence and does not investigate companies or make findings of fact regarding corporate compliance.[9]

C. HOW THESE DEVELOPMENTS STACK UP

The CORE suffers from significant structural and functional shortcomings when compared to CNCA model legislation, UN guidance and international standards.[10] The office is further undermined by the government's failure to complete its review of the mechanism and to fill the ombudsperson post in a timely manner.

At the conclusion of its 2017 visit to Canada, the UN Working Group on business and human rights called on the Canadian government to establish an ombudsperson that is independent and well-resourced, with the power to investigate allegations, conduct fact finding and enforce its orders.

In 2023 the CORE commissioned two external assessments of the office. The first concerned its compliance with international standards on ombudsperson independence.[11] The author noted that the CORE is the first ombudsperson mandated to receive complaints from foreign nationals regarding the actions of private actors operating abroad. He argued that while other ombudspersons have jurisdiction over state bodies, the international standards developed to assess these offices should also apply to the CORE. The author concluded that "the CORE's status, institutional arrangements, mandate, and powers require improvement to meet international best practice standards." Among other recommendations, the author called for the CORE to be:

- established independently of executive government, as a fully independent ombud office, rather than as a ministerial Special Adviser;
- granted legally enforceable powers to compel the production of evidence; and
- granted the legally enforceable power to require that its recommendations are responded to within a given timescale.

The second external assessment considered the relationship between CORE's degree of independence and its ability to meet the effectiveness criteria for state-based non-judicial grievance mechanisms established in the UN Guiding Principles.[12] The author identified numerous factors that potentially undermine the CORE's independence and consequently, its effectiveness. The author concluded: "[t]he CORE is an important innovation in the field of business and human rights. However, its status as a "world first" does not mean it cannot (or should not) be significantly improved."

3. State-Business Nexus

A. CNCA PROPOSALS

Since its formation, the CNCA has called for policy and legislative reforms to improve transparency and accountability regarding the myriad supports provided to multinational corporations by the Canadian government. This includes reforms:

- to improve transparency regarding the nature of government supports; the recipients of such supports; and the nature and application of relevant government policies, including those concerning due diligence; and
- to prohibit support for corporate activity that causes or contributes to human rights abuse and environmental damage.

In addition, the CNCA has linked corporate eligibility for government services to judicial processes and non-judicial grievance mechanisms. The CNCA's 2016 model legislation empowers the ombudsperson to recommend the withdrawal of government supports at the conclusion of an investigation. Failure to implement such a recommendation is judicially reviewable under the model law. The network's 2021 model due diligence legislation allows a party who has suffered injury as a result of a company's contravention of the law to bring a court action for redress. Interested parties are also permitted to file suit if they believe that a company has failed to develop and implement adequate due diligence procedures. Where such legal actions are successful, the parties may seek court orders to terminate existing and/or disallow future government supports for the companies involved.

B. POLICY AND LEGAL DEVELOPMENTS

Canada lacks enforceable legislative provisions that condition corporate eligibility for government services on compliance with human rights or environmental norms. Moreover, the government departments and agencies that support corporations are not required to disclose information about any human rights and environmental due diligence processes they may apply.[13]

Under the Canadian government's 2022 Responsible Business Conduct Abroad strategy, companies are required to acknowledge the importance of responsible business conduct (RBC), including adherence to Canadian laws and international legal norms and conventions concerning human rights, labour rights and the environment, in order to access services provided by the Trade Commissioner Service (TCS). This acknowledgement is made by means of a "digital RBC attestation." When companies seek advocacy support abroad,[14] they're required to attest that they operate in a manner consistent with the UN Guiding Principles and the OECD Guidelines. The strategy states that a company's RBC practices *may* be considered before advocacy support is provided and that TCS services may be withdrawn if a company fails to comply with Canada's RBC laws, policies and standards. In addition, companies active in regions or sectors that face heightened risks *may* be required to sign a specialized integrity statement in order to receive TCS services (emphasis added).

Crown corporations Export Development Canada and the Canada Pension Plan Investment Board develop and apply their own due diligence policies and practices. Both institutions support commercial sectors associated with significant human rights and environmental risks, including providing generous support to fossil fuel companies.

The Canadian government continues to use international development assistance to promote Canada's commercial interests. For example, in March 2025 Global Affairs announced Canada's first Africa strategy, which includes a new trade and development program that will "support development initiatives that foster stronger trade and investment environments." In addition, the G7 2025 Critical Minerals Action Plan commits members to support policy and regulatory reforms that improve the investment climate in low- and middle-income countries.

As described above, the Order in Council that created the CORE provides that where a company does not act in good faith during the course of or follow-up to a review process, the ombudsperson may recommend to the minister for international trade that:

- existing and/or future trade advocacy support to the company be disallowed; and
- Export Development Canada refuse to provide the company with support.

In addition, the ombudsperson may make recommendations at any time to the minister that responsible business conduct and due diligence policies, as they relate to funding and services provided by the Canadian government, be reviewed. The Order in Council does not address corporate eligibility for government services when a company is found to have caused human rights harms.

Since its inception, the CORE has recommended that a company be refused trade advocacy and export credit support just once. The CORE has not made recommendations regarding the due diligence policies employed when assessing corporate eligibility for government services.

C. HOW THESE DEVELOPMENTS STACK UP

As with the other priority issues described above, the Canadian policy and legal context regarding the state-business nexus falls far short of CNCA recommendations, UN guidance and practice by at least one leading state.

The UN Guiding Principles provide that states should encourage and, where appropriate,require human rights due diligence by public agencies and the business enterprises that receive their support. The Guiding Principles explain that a requirement for human rights due diligence is most likely to be appropriate where the nature of business operations or operating contexts pose significant risk to human rights. Many Canadian companies operate in sectors, such as the extractive industries, that are widely recognized as posing just such a risk.

The UN Working Group on business and human rights advises that states should require that businesses demonstrate an awareness of and commitment to the UNGPs as a prerequisite for receiving state support and benefits relating to trade and export promotion. The group asserts that states should condition participation in trade missions, eligibility for trade advocacy and

generalized export assistance on such commitments. Following its 2017 visit to Canada, the group recommended that the Canadian government move beyond its practice of threatening companies with the removal of trade services and instead "ensure that clear expectations are set out for companies and that respect for human rights is a condition of receiving the Government's support or benefits."

The Norwegian government's massive sovereign wealth fund, Government Pension Fund Global, has explicit investment policies called Ethical Guidelines. An affiliated body, the Council of Ethics, provides assessments regarding corporate compliance with these guidelines. Companies are excluded from the fund if they manufacture particular products (e.g. some weapons, tobacco, etc.) or for certain behaviours, including 'serious or systematic human rights violations' and 'severe environmental damage.' Several Canadian companies, including Barrick Gold and Suncor Energy, have been excluded from the fund.

ENDNOTES

1 See: https://publications.gc.ca/collections/collection_2024/fin/F1-52-2024-eng.pdf.

2 The network also supports the UN process to develop a human rights treaty on transnational corporations and other business enterprises, and encourages the Canadian government to fully engage in the treaty negotiation process.

3 The model legislation is intended to protect all rights-holders impacted by business activity, including human rights defenders.

4 See: https://aboveground.ngo/wp-content/uploads/2024/05/Enforcing-Canadas-forced-labour-import-prohibition-May2024.pdf

5 See: https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-sum-01-00-en.pdf

6 As part of a suite of measures to "cover and align with" the OECD Guidelines on Responsible Business Conduct: https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0486

7 National Roundtables on Corporate Social Responsibility (CSR) and the Canadian Extractive Industry in Developing Countries.

8 See https://www.theglobeandmail.com/canada/article-future-of-canadian-corporate-watchdog-uncertain-as-top-position/ and https://aboveground.ngo/overview-of-cases-canadian-ombudsperson-responsible-enterprise/#footnote.

9 For more information, see the 2025 MiningWatch Canada publication: *Canada's National Contact Point for the OECD Guidelines: An Ineffective Human Rights Mechanism*, https://miningwatch.ca/sites/default/files/final_MiningWatch%20Canada%20Brief%20on%20the%20NCP%20Nov%202025%20Final.pdf.

10 Because the CORE is the only state-based ombudsperson mandated to receive complaints regarding the overseas activity of private sector actors, there are no analogous initiatives in other jurisdictions with which it can be compared. The German Supply Chain Due Diligence Act requires *companies* to establish and evaluate complaints procedures to enable "internal and external persons to report to the enterprise human rights and environment-related risks or violations within its own business area and in the supply chain."

11 Chris Gill, "Ombud Independence and the Venice Principles", May 24, 2023, https://core-ombuds.canada.ca/core_ombuds-ocre_ombuds/ombud_independence-independance_ombudsman.aspx?lang=eng.

12 Jennifer Zerk, "The role and significance of independence of State-based non-judicial grievance mechanisms under "Pillar 3" of the UN Guiding Principles on Business and Human Rights", May 25, 2023, http://core-ombuds.canada.ca/core_ombuds-ocre_ombuds/role_significance-role-importance.aspx?lang=eng

13 For example, legislative provisions that require or allow EDC to withhold information are so sweeping that they effectively thwart the application of the Access to Information Act to EDC (https://aboveground.ngo/wp-content/uploads/2019/03/LR-main-submission-final.pdf).

14 The strategy explains: trade advocacy includes specialized services such as government of Canada officials supporting a Canadian company in interactions with foreign public officials. It could include writing a letter in support of a company, or a Government of Canada official providing remarks at an event hosted by the company.

2

ASSESSMENT AND RECOMMENDATIONS

Canadian policy and legal developments have failed to keep pace with international standards and leading jurisdictions. While the Canadian government recognizes the value of due diligence, it relies on companies to voluntarily adopt this practice. A commitment to introduce legislation mandating labour rights due diligence remains unfulfilled. Canadian government departments and agencies are opaque and continue to buttress companies accused of causing harm. The CORE is hamstrung by significant deficiencies that undermine its credibility and effectiveness, yet the office has significant potential.

As the Canadian government intensifies its efforts to promote overseas investment, including in sectors associated with significant risk, it must take steps to protect rights-holders and the environment, as required under international law. The CNCA recommends that the Government of Canada expeditiously:

- implement comprehensive human rights and environmental due diligence legislation. As a first step towards comprehensive legislation, immediately adopt legislation requiring companies to conduct due diligence to prevent forced labour and child labour throughout their supply chains;
- publish its review of the CORE, appoint an ombudsperson and grant the office the independence and investigatory powers required to realize its potential; and
- adopt measures that improve transparency regarding the operation of government departments and agencies that provide support to companies, and that condition such support on corporate respect for human rights and the environment.

CNCA members deliver a 52,000 signature petition to Parliament Hill, calling for Canada to adopt human rights and environmental due diligence legislation.


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