

March 14, 2017

The Right Honourable Justin Trudeau
Prime Minister of Canada
Office of the Prime Minister
80 Wellington Street
Ottawa, ON K1A 0A2

Dear Prime Minister Trudeau,

We, the undersigned professors, call on the Canadian government to enact legislation to establish a credible and effective independent ombudsperson to investigate and hear complaints about Canadian extractive companies operating abroad. The Liberal party made this commitment during the election campaign.

There is now a proposal before your government to bring in legislation that would give an ombudsperson powers similar to other bodies, such as the Privacy Commissioner and the Information Commissioner. The proposed ombudsperson would have the power to: investigate allegations of human rights harm by Canadian extractive companies; recommend conditioning government support on corporate respect for human rights; and to recommend remedies for victims of such harm. It would also have the power to monitor subsequent corporate conduct and follow up on compliance with such remedies.

Importantly, the proposed mechanism would meet the requirements of the United Nations Guiding Principles on Business and Human Rights for non-judicial grievance mechanisms. It would comply with the principles of legitimacy, accessibility, predictability, equitability, transparency, rights-compatibility and being a source of continuous learning.

Canada is home to 75% of the world's largest mining and exploration companies as well as many medium to large-sized oil & gas companies. Many of these companies operate in the developing world. In 2009 a report, commissioned by the Prospectors and Developers Association of Canada, found that of 171 high profile incidents involving mining companies over the last decade, 34 per cent of the implicated companies were Canadian. These incidents involved conflict with local communities, environmental and human rights abuses, as well as unethical behaviour. The report also noted that Canadian companies were involved in four times as many incidents as their closest peers in Australia and the UK. A 2016 report of the Justice and Corporate Accountability Project at Osgoode Hall Law School documented 100 incidents of violence associated with Canadian extractive companies operating in Latin America between 2000 and 2015.

Canada's Enhanced CSR Strategy signals a recognition of these problems. The ombudsperson legislation is the next logical step, and an essential one in addressing extractive company conduct abroad. The creation of an ombudsperson must be undertaken together with reforms to strengthen Canada's OECD National Contact Point, which are long overdue. UN treaty bodies, as well as the Inter-American Commission on Human Rights, have all called on your government to regulate Canadian extractive companies operating abroad. Other states have recognized the need to 'step up' and Canada is lagging behind. Just last week, the French Parliament voted to require large French companies to publish 'due diligence' plans that

demonstrate the steps they are taking to prevent human rights abuses in their operations and supply chains.

We applaud your government's commitment to the international protection and promotion of human rights. Enacting the proposed ombudsperson legislation would be a significant first step toward ensuring that neither Canadian extractive companies nor the Canadian economy profit from human rights abuses and other harms committed in other countries.

Signed:

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