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Access to Justice and Effective Remedies in the Context of Toxics

***Submission to the United Nations' Special Rapporteur
on toxics and human rights, to inform the Rapporteur's
2025 thematic report to the UN Human Rights Council***



October 2024, Rouyn-Noranda, Québec, Canada
Civil disobedience action led by women protesting the “sacrifice zone” they are living in
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Presentation and introduction

Founded in 1999, MiningWatch Canada brings together some 30 member organizations that collectively represent several hundred thousand individuals from across Canada.¹ As an independent non-profit, our mission is to work in solidarity with Indigenous peoples and non-Indigenous communities who are dealing with potential or actual industrial mining operations that affect their lives and territories, or with the legacy of closed mines, as well as with mineworkers and former workers seeking safe working conditions and fair treatment. Over the past 25 years, MiningWatch has become a key player, with more than 200 investigations, interventions, reports, and legal actions on as many mining projects at the national and international level. Environment, human rights, Indigenous rights, transparency, and corporate accountability — these are the issues that have led to MiningWatch's involvement at both the community and public policy levels. MiningWatch has participated in some 20 legal actions, including four at the Federal Court and the Supreme Court of Canada in connection with mining issues in the country.

Along the road, we have witnessed and documented many instances of toxic contamination, combined with a lack of justice for the local affected communities. In this brief, we outline an emblematic case in Canada, located in Rouyn-Noranda, Québec.

Situation in Rouyn-Noranda, Québec, Canada

In Canada, the population of Rouyn-Noranda is regularly exposed to toxic emissions that far exceed the standards enforced elsewhere in the province of Québec. Many of the toxic substances emitted into the atmosphere are carcinogenic or potentially carcinogenic.

This situation has arisen because the Québec Environment Ministry issued ministerial authorization to the company Glencore to emit concentrations of contaminants at its Horne smelter that are well above national standards. For arsenic alone, the company is authorized to reach an average annual concentration of 45 nanograms per cubic metre of air (45 ng/m³), while the Québec standard is 3 ng/m³. It should be noted that the Québec standard is based on public health studies that support the international guidelines developed by bodies such as the World Health Organization.

According to the most recent ministerial authorization signed in March 2023, the company will have to gradually reduce its atmospheric arsenic emissions by March 2028 to reach an average annual target of 15 ng/m³. However, this target will remain five times higher than the Québec standard.

In 2022, data released by Québec's national director of public health showed that the population of Rouyn-Noranda had a significantly lower life expectancy than the rest of the province's population and that the incidence rate of many lung diseases or cancers that could be caused by exposure to toxic substances in the city's air was higher than the provincial indicators.

¹ To know more about our lessons learned after 25 years of actions, see: MiningWatch Canada. (2024). 25 years: A Bedrock for Mining Justice. https://miningwatch.ca/sites/default/files/25years_bedrockforminingjustice_2024.pdf

Among 40 companies that Glencore fully or partially owns in Canada, the Horne smelter is one of its largest.² Only three years ago, the “controversial corporation [...] pleaded guilty in the United States to foreign bribery, corrupt payments and market manipulation in seven countries”.³

For years, the unreasonable permission to pollute granted to Glencore by the Quebec government has been widely criticized, denounced, and condemned by many citizens and civil society groups. Dozens of citizen actions have been carried out to emphasize the population's desire for the right to clean air. A consultation launched in 2022 by the province's premier showed that the people of Rouyn-Noranda did not want the company to be granted a new authorization to exceed Québec standards. However, these repeated positions taken by the local population have not led to decisions, or mechanisms to ensure access to justice, for the local population exposed to the toxic substances emitted by Glencore.

Given this situation, a class action was filed before the Superior Court of Quebec on October 23, 2023.⁴ The Plaintiffs seek “compensation for damages caused as a result of the release of toxic and carcinogenic contaminants (including arsenic, lead, cadmium and sulphur) into the atmosphere by the Horne smelter.”⁵ They are also seeking “an order enjoining Glencore Canada Corporation to reduce all emissions of contaminants from the Horne smelter to the maximum concentrations established by current regulatory standards adopted under the *Environment Quality Act*, and cease harming the life, health, safety, and comfort of class members, causing damages, or otherwise adversely affecting the quality of the environment and property.”⁶ To date, the trial is ongoing and an initial decision is expected in the coming months. For many, this recourse before the courts might be the last hope for compensation for the damage caused by the complacency of the public authorities and the pollution of the transnational corporation.

It should also be noted that the region's residents face a series of immense obstacles just to gain access to information on the toxic substances that are processed at the Glencore plant and that threaten their health. This reality was well illustrated regarding the information kept by the Québec government when a resident had to undertake legal actions to obtain data on the contaminants processed in the Horne smelter.⁷ It is also the case that the data collected by the federal government concerning the release of pollutants into the environment appears to be incomplete and lacking.⁸

In our view, it is clear that this case is a perfect example of obstruction of access to justice and effective remedies for populations affected by the emission of toxic substances.

² MiningWatch Canada. (2024). A Bad Deal for Canada: Mining giant Glencore's Canadian expansion threatens climate and communities. <https://miningwatch.ca/sites/default/files/bad-deal-for-canada-glencore-report-final-july-2024.pdf>, p. 4.

³ *Id.*, p. i.

⁴ Thomas Gerbet. 23 octobre 2023. Un recours collectif contre la Fonderie Horne et le gouvernement du Québec. Radio-Canada. <https://ici.radio-canada.ca/nouvelle/2020237/justice-glencore-gouvernement-rouyn-noranda-abitibi>

⁵ Siskinds Desmeules. Class Action. Horne Smelter's contaminants emission. <https://www.siskinds.com/class-action/horne-smelters-contaminants-emission-class-action/>

⁶ *Id.*

⁷ *Fonderie Horne c. Ministère de l'Environnement et de la Lutte contre les changements climatiques*, [2022 QCCA1 199](#); *Fonderie Horne c. Ministère de l'Environnement et de la Lutte contre les changements climatiques*, [2023 QCCQ 10259](#).

⁸ MiningWatch Canada. 26 April 2024. Webinaire | Atelier sur l'utilisation de l'Inventaire national des rejets de polluants au sujet de la Fonderie Horne. <https://miningwatch.ca/fr/blog/2024/4/26/webinaire-atelier-sur-lutilisation-de-linventaire-national-des-rejets-de-polluants>

The residents of Rouyn-Noranda do not hesitate to use the term “sacrifice zone” to describe the reality they are living.⁹ With regret, we are forced to conclude that this expression is an accurate description of the lack of justice that prevails in Rouyn-Noranda.

In our opinion, this situation requires intervention and investigation by the United Nations’ Special Rapporteur.

⁹ Several citizens have recently published a book using this formula as a title. See: Anaïs Barbeau-Lavalette, Véronique Côté, Isabelle Fortin-Rondeau *et al.* (2025). *Zones sacrifiées*. Éditions du Quartz. Rouyn-Noranda. 123 p.