

# 25 YEARS: A BEDROCK FOR MINING JUSTICE



## COVER PHOTOS

Top left: A woman walks in the Santurbán páramo in Colombia in 2022, a vital water source that communities are fighting to protect from mining. (V. Herrera, MiningWatch Canada); Top right: Demonstrators protest Barrick Gold's proposed Pascua Lama project. Santiago, Chile, November 12, 2005. (OLCA); Middle right: Wolf paw prints on the tailings at a mine in Joutel, Québec in 2023. (R. Turgeon, MiningWatch Canada); Bottom right: Iduapriem open pit mine, Tarkwa, Ghana circa 1999. (J. Kneen, MiningWatch Canada)

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# Foreword

## **Celebrating 25 Years of Impact: A Journey of Advocacy and Empowerment**

As we gather to commemorate a significant milestone in MiningWatch Canada's history, we reflect on the impacts of the organization. Launched in 1999, MiningWatch focussed on the urgent need to coordinate public interest responses to threats to public health, water and air quality, fish and wildlife habitat, and community interests posed by irreparable mining policies and practices in Canada and around the world.

Over the past 25 years, the organization has offered hope, resilience, and advocacy; working towards a world in which Indigenous peoples can exercise their rights to self-determination, where communities give consent before any mining activities occur, and mine workers are guaranteed safe and healthy conditions. The organization has stood shoulder to shoulder with affected peoples and communities who have stood up for human, Indigenous, and environmental rights in the face of potential or actual effects of mineral exploration and extraction activities. Further, MiningWatch has supported access to justice and reparations for mining harms; working with others to challenge and ultimately reshape narratives, policies, and laws over who has the right to decide the means of development.

Since MiningWatch's inception, staff have dedicated themselves to building relationships and championing the rights of those affected by the mining industry. We recognize the values, experience, and knowledge of Indigenous peoples, mining-affected communities, and workers. Over the decades, this tireless effort has been based on mutual learning, respect, and participatory action to ensure that mineral development practices are consistent with sustainable communities and ecological health.

As we look back on the accomplishments, we recognize the relationships of solidarity that have formed, the battles fought together (some lost and others won), and the impact of a small organization against the irresponsible use of government and industry power and wealth. In this reflection, we also recognize that mining has expanded both nationally and globally, that the narratives have shifted to facilitate more extraction, and that the climate crisis has accelerated the dire concerns of communities.

MiningWatch remains a catalyst of hope during these unprecedented times. We invite you to witness and learn from the experiences and stories of so many. Most importantly, we ask for your hand to join the solidarity for the enhancement of life to protect the lands and waterways, and to shape a future—a legacy of our generations that respects Indigenous economies, reverses colonialism and extractivism, and actualize new ways to manage our common household—for new principles and practices to emerge that support sustainable communities and to see our relatives of the natural world thrive.

Miigwech-thank you.

Donna Ashamock and Alexandra Pedersen  
Co-chairs of the MiningWatch Board of Directors

## Introduction

MiningWatch Canada launched as a pan-Canadian initiative on April 1, 1999, on the heels of a decade that saw an unprecedented global expansion of mining brought about by economic globalization. Indigenous, environmental, social justice, and labour organizations came together with different backgrounds and experiences to respond to threats posed by irresponsible mining practices in Canada and around the world.

We set out to bring people together to exchange experience and expertise, and to work in solidarity to build networks, coalitions, and relationships to challenge the power of the mining industry and the politics that serve it. In the 25 years since, we have worked with dozens of mining-affected communities around the world, intervened in over 200 mining conflicts globally in support of affected communities, written and supported the publication of well over 100 in-depth reports, advocated for legislative change, lodged over 40 key legal actions and complaints, and helped build a movement for corporate accountability in Canada.

What have we learned? And where do we go from here?

When we launched this project in 1999, we walked into an enormous pent-up demand for help from communities in Canada and globally that were being devastated by mining disasters and conflicts years in the making: abandoned mines leaching heavy metals and acid into waterways where people fish, open pits cutting off mountaintops and digging huge craters into rainforests, sacred sites being violated, terrifying violence against communities in protest, and more. People were fed up with industrial projects that permanently altered their ways of life being imposed on them without their consent and, in the case of Indigenous communities, in violation of their inherent and treaty rights. Canadian companies were increasingly building mines in countries

### Founding members of MiningWatch Canada

MiningWatch's eight original founding members: Canadian Arctic Resources Committee; Canadian Environmental Law Association; Canadian Nature Federation; Environmental Mining Council of British Columbia; Innu Nation; Inter Pares; Northwatch; Yukon Conservation Society.

Today, we are fortunate to have 25 members from coast to coast to coast.

with compromised rule of law and governance weakened by colonialism. Communities both in Canada and abroad were approaching us to help stop the harm being done, hold these companies to account for their abuses, and work together to change the systems that facilitated these abuses in the first place.

We sought to be a resource for people affected by mining as they organized and built grassroots power to confront the industry. Today, we see communities across the globe better positioned to intervene at earlier stages of mine development and even, on occasion, stop bad projects before they start. At the same time, insatiable demand for metals and minerals has skyrocketed with rising global consumption. Combined with the industry's greed for profits and pervasive government support, mining's footprint and associated harms are ballooning. Mines are getting bigger as companies pursue lower grades of ore and are increasingly encroaching on more remote areas and Indigenous territories, pushing into deserts, small islands, glaciers, and even the deep seabed.

In honour of MiningWatch's 25th anniversary, we share some key reflections about the movement for mining justice in Canada and globally, and our collective contributions to it. We remain the only national organization in Canada solely dedicated to protecting peoples and the planet from the harms of industrial mining.

This work continues to be a labour of love and a commitment to life, shaped by MiningWatch's member organizations, staff, board, and the many mining-affected communities, coalitions, and activists we have been fortunate to work with along the way. We're fighting against powerful interests and structural injustices that are deeply entrenched in Canada and around the world. But with collaboration and persistent and strategic effort, we know change is possible. Needless to say, this work is far from done.

## Putting relationships at the heart of everything

MiningWatch's founding organizations came together during a time of massive global change. By the late 1990s, economic globalization was in full swing. The structural adjustment programs that were being imposed on developing countries included measures to attract foreign direct investment in mining. The Canadian government was an ardent supporter of these changes, helping countries rewrite their mining laws and, not coincidentally, open the way for Canadian mining investment. New rules for global trade were being written to allow profits to flow across borders more easily, allowing for a rapid expansion of Ca-

Photo right: Indonesian community representatives visit the Innu in Ntesinan in 2000. (L. Innes)

From day one, we were clear that the most important resource that mining-affected communities have is each other.

nadian mining companies – large and small – into new territories worldwide.

At the same time, in Canada, Indigenous peoples were fighting to advance state recognition of their rights through the courts, and land claims were advancing through negotiation; the Nunavut Land Claim Agreement was coming into force and land claims in Nunatsiavut (northern Labrador) and the Western Arctic were being negotiated. Meanwhile, large mining projects like Voisey's Bay in Labrador and Ekati in the Northwest Territories were being developed. There were major conflicts over land use, conservation, and environmental protection. Community groups and environmental organizations across the country were fighting mining projects from the glaciers of northwestern British Columbia to Newfoundland and Labrador.

In all these struggles, affected communities lacked independent information about mining. Communication technology, particularly in the early years of our work, was not what it is today. Publicly available information about the social, cultural, and environmental impacts of mining was not abundant, nor easily digestible. Communities were more isolated in their dealings with mining companies; those who had experience didn't have channels to share it. Nor were there effective networks for technical, legal, or political support.

From day one, we were clear that the most important resource that mining-affected communities have is each other. MiningWatch was founded on the principle of respect for community self-determination, valuing the wisdom that comes from lived experience and connection to place. We



have made the experience and demands of people wrestling firsthand with the impacts of mining central to our work. By prioritizing strong connections with mining-affected communities and building relationships based on mutual trust, we could ensure our work was in close alignment with their demands, laying the groundwork for years of effective collaboration, and serving as a pivotal connection point in bringing other allies and decision makers on board.

Over the years, we have developed enduring relationships with trusted partners and joined or created coalitions with local, national, and international organizations in every area of our work. We have helped create and sustain regional and global networks of mining-affected communities and organizations, bringing these demands to the legal, regulatory, and technical processes controlled by government and industry to make them more responsive and accountable.

The “wins” haven’t always been obvious. But every mining struggle is an opportunity to witness firsthand how mining continues to harm communities, to provide direct solidarity and relevant support, and to enter policy spaces, together with our local partners, to challenge proposals that will continue destructive business-as-usual and to advocate for changes that will protect the values that allow communities to thrive. As a small organization with limited resources, we’ve worked strategically to not only support mining-affected communities directly, but to facilitate our local partners in speaking to decision makers in Canada, where their struggles expose broader structural issues.

We’ve remained a small staff – growing from one full-time and two part-time positions when we started in 1999 to just six staff today – in part because it has allowed us to remain nimble and expand our program work in a way that stays true to our core values. We knew when we first started that bringing people together to share their experiences, identify relevant experts and advance collective research priorities, connect isolated struggles, and bolster local organizing efforts would provide the basis for long-lasting change.



MiningWatch Canada original staff, from left to right: Research Coordinator Catherine Coumans, National Coordinator Joan Kuyek, and Communications Coordinator Jamie Kneen. (MiningWatch Canada)

## Two conferences that set the tone for 25 years of work

The very first activity MiningWatch organized was a workshop on the impacts of mining on Indigenous peoples in Canada, in September 1999, co-hosted by the Innu Nation. Over 75 Indigenous leaders and technical workers from over 30 communities affected by mining across the country attended the workshop, documented in “Between a Rock and a Hard Place: Aboriginal Communities and Mining.”<sup>1</sup> The gathering served to share experience and ideas across communities navigating environmental assessments and land rights negotiations, confronting claim staking and exploration, developing impact and benefit agreements, and dealing with toxic contamination from operating and abandoned mines.

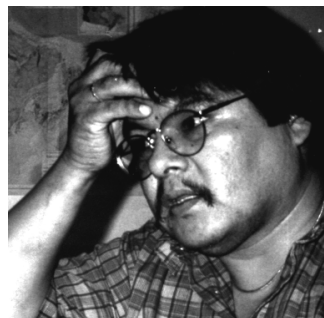
Effectively, it served as an opportunity for Indigenous communities to set an agenda for MiningWatch’s work. It was important to us to ensure that Canada’s colonial realities and the place of Indigenous peoples were front and centre – both in terms of how they are affected by mining activities and in terms of reclaiming rights and re-establishing right relationships with the land, waters, and fellow beings. The success of that first conference vindicated this approach and built the foundation for our work in Canada.

The following year, we convened an international workshop to identify the research needs of communities affected by Canadian large-scale mining. Participants came from Canada, the US, Suriname, Colombia, Peru, Mexico, Guyana, Ghana, the Philippines, Papua New Guinea, and Indonesia. The report of that workshop, “On the Ground Research,” is still a touchstone for our work.<sup>2</sup>

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1 Innu Nation and MiningWatch Canada. *Between a Rock and a Hard Place: Aboriginal Communities and Mining*. September 1999. [https://miningwatch.ca/sites/default/files/abo\\_conf\\_booklet\\_0.pdf](https://miningwatch.ca/sites/default/files/abo_conf_booklet_0.pdf)

2 MiningWatch Canada and the Canadian Consortium for International Social Development (CCISD). *On the Ground Research: A workshop to identify the research needs of communities affected by large-scale mining*. April 2000. [https://miningwatch.ca/sites/default/files/on\\_the\\_ground.pdf](https://miningwatch.ca/sites/default/files/on_the_ground.pdf)



Photos left to right: “On the Ground Research” workshop — plenary session, April 15, 2000. (J. Kneen); Daniel Ashini at the “Between a Rock and a Hard Place” workshop in 1999. (C. Cleghorn); Martin Misiedjan, from Nieuw Koffiekamp, Suriname, makes a point at the “On the Ground Research” workshop as Francisco Ramírez, President of the Colombian Mineworkers’ Union, listens.





Left: Copper Mountain Mine Tailings Reservoir in Princeton, B.C. (Joe Foy); Top right: Warning signs at the abandoned Deloro mine site in Ontario. (MiningWatch); Bottom right: Rocks discoloured by acid mine drainage at the Faro Mine in the Yukon. (Mining-Watch)

## In Canada: Changing laws and practices

We knew from the start *how* we wanted to work. But *where* to start? What were we up against? How could we move the needle?

The mining industry and Canadian governments at all levels have long promoted mining as “development,” attempting to soften the industry’s harsh impacts by pitching mining as a means to secure good jobs, build roads and other infrastructure to service remote communities, generate corporate taxes to strengthen health-care and education, and dramatically improve social well-being. This myth has allowed industrial mining projects to rapidly expand across the country, permanently altering surrounding communities and environments. As promises go unfulfilled and costs mount, thousands of these mines have been left abandoned with no money or plan to address perpetual liabilities.

In the late 1990s, MiningWatch’s founding members were either dealing directly with mining impacts in their own communities and regions or were being approached by people seeking support. Sometimes both. A national organization would allow for stronger engagement in legal and policy work in Canada and more consistent pressure to change the structures

that allow mining harms to continue. Communities facing similar impacts as industrial mining expanded in Canada and globally could benefit from more coordinated research and advocacy efforts.

While the environmental disasters unfolding at several abandoned mines were top of mind for several of MiningWatch’s founders, we identified major issues with all stages of the mining life cycle, starting right with the problem of staking a mineral claim.

### “Free entry” as the first problem

In Canada, mining laws vary by province and territory, but generally operate under the principle that the Crown owns the subsurface or mineral rights unless explicitly stated otherwise. Most jurisdictions prioritize mining through a “free entry” system that allows individuals to stake mining claims practically anywhere with minimum restriction – regardless of who lives there or how they relate to the land, and taking precedence over any other land use or tenure.<sup>3</sup>

<sup>3</sup> Much has been written on the free entry system in Canada, but for two good primers, see: Karen Campbell from West Coast Environmental Law. *Undermining our Future: How Mining’s Privileged Access to Land Harms People and the Environment*. January 2004. [https://miningwatch.ca/sites/default/files/WCEL\\_Free\\_Entry\\_paper\\_0.pdf](https://miningwatch.ca/sites/default/files/WCEL_Free_Entry_paper_0.pdf); Ramsey

With very little effort and a nominal fee, anyone can acquire a prospecting licence and obtain the exclusive mineral rights to an area they have claimed. While most of these claims will never result in an operating mine, the very existence of mining claims creates a legal interest in the land that violates Indigenous self-governance, and obstructs measures for land stewardship, such as protecting caribou calving grounds and other culturally and economically important areas,<sup>4</sup> establishing protected areas, managing flood zones, and beyond. Once an area is claimed, exploration can begin – bringing its own adverse impacts on water quality and the health of surrounding forests and ecosystems.<sup>5</sup>

Free entry is rooted in the *Doctrine of Discovery*, under which European colonizers claimed ownership and all rights associated with Indigenous territories. Aside from being an ongoing source of profound injustice and a violation of the inherent rights of Indigenous peoples, the free entry system also stands in direct contradiction to many treaties, Charter rights, and Canada's stated commitment to the UN Declaration on the Rights of Indigenous Peoples.

Challenging free entry has been central to MiningWatch's work these past 25 years, as we have formed coalitions to target mining-heavy jurisdictions with political openings, notably in British Columbia, Ontario, and Québec. Legal reforms in Québec and Ontario have introduced some restrictions on free entry: staking rights are now limited in southern Ontario, and in Québec,

prospectors need permission to enter private lands, and certain municipal areas are off-limits for staking. Over the years, important legal challenges led by Indigenous nations like the Ross River Dena in the Yukon have overturned free entry in specific cases as a violation of Indigenous title and self-governance. The strongest hope yet for meaningful change is British Columbia's commitment to reform its *Mineral Tenure Act*, following a B.C. Superior Court ruling in favour of the Gitxaala and Ehattesaht First Nations ordering substantial reform by March 2025.

Despite these efforts, legal reforms have been far too slow and limited to address the rapid increase in mining claims across Canada. In 2023, we joined our partners in the *Coalition Québec meilleure mine* to map a boom in mining claims – finding that a jaw-dropping 10% of the province of Québec is currently under mining claim.<sup>6</sup> As of November 2023, sixty percent of the 338,000 active mining claims overlap in full or in part with rivers, extending potential impacts of mining throughout the entire province.<sup>7</sup>

## *A jaw-dropping 10% of the province of Québec is currently under mining claims.*

MiningWatch has long advocated that Indigenous nations and municipalities must have stronger powers to determine where mining activities should – or should not – take place. This

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Hart from MiningWatch Canada and Dawn Hoogeveen. *Introduction to the Legal Framework for Mining in Canada*. July 2012. <https://miningwatch.ca/2012/7/18/introduction-legal-framework-mining-canada>

4 For more on the impacts of mining claims and minerals exploration, read: Joan Scottie, Warren Bernauer, Jack Hicks. *I Will Live for Both of Us: A History of Colonialism, Uranium Mining, and Inuit Resistance*. November 2022. <https://uofm-press.ca/books/i-will-live-for-both-of-us> and Rodrigue Turgeon, "Haro su les claims miniers, ces instruments de torture coloniale" in Sabaa Khan and Catherine Hallmich, *La nature de l'injustice : racisme et inégalités environnementales*, Montréal, Écosociété, 2023, p. 163 to 184.

5 More information on the impacts of mineral exploration on water quality can be found in the guide written by Eau Secours, MiningWatch et al. *Impacts of Mining Activities on Water: A technical and legislative guide to support collective action*. November 2023. [https://miningwatch.ca/sites/default/files/2023-11\\_CitizensGuide\\_ImpactsOnWater.pdf](https://miningwatch.ca/sites/default/files/2023-11_CitizensGuide_ImpactsOnWater.pdf)

6 Québec's Ministry of Natural Resources and Forests, GESTIM, online, 2023.

7 MiningWatch Canada, Eau Secours, Coalition Québec meilleure mine. *Launch of the First Citizen's Guide on the Impacts of Mining*. November 21, 2023. <https://miningwatch.ca/news/2023/11/21/launch-first-citizens-guide-impacts-mining>

includes the power to define “territories incompatible with mining activities” and, importantly, the right to revoke existing mining claims in the interest of the public. *Where* mining happens is a critical aspect of *how* mining happens. Mining must be balanced with other environmental, cultural, and economic land use priorities, based on close consultation with affected communities and the free, prior, and informed consent of Indigenous peoples. For mining to minimize its damaging effects, these considerations must be in place right from the beginning, even before a mining claim is granted.

## Environmental Assessments: A useful tool or collective gaslighting?

A claim is staked, exploration begins, and if deemed economically viable, a project developer submits a proposal. Environmental assessments should be a key opportunity for communities and public interest groups to have a say in development, as experts review and critique projects with the aim of optimizing benefits and minimizing harm – and to prevent projects from being built that pose unacceptable risk.

However, mining companies often view these reviews as burdensome and unnecessary. Processes for environmental assessment were already limited in scope when MiningWatch formed in 1999, but over the years, the industry has successfully lobbied to gut any potential improvements. Today, federal environmental assessments are essentially a rubber stamp, with only the largest projects subject to assessment in the first place. Provincial processes are generally weak or outright ignored by governments. Ontario, for instance, doesn't even require an environmental assessment of private projects, including mining.

MiningWatch has fought doggedly to make the federal environmental assessment process live up to its potential as it has gone through a series of legislative and regulatory reforms, including

major rewrites of the law. Most recently, we intervened at the Supreme Court of Canada to defend its very existence against Alberta's attempt to gut it completely. Despite the processes' flaws, we have supported many communities in navigating federal and provincial assessments. And in a few cases, community priorities actually prevailed. We supported the T̓silhqot'in National Government in its long fight to stop Taseko Mines' "Prosperity" copper-gold project and preserve Teztan Biny (Fish Lake) in central B.C., and we supported the Stk'emlúpsmc te Secwépemc Nation in its independent assessment and rejection of KGHM's Ajax copper-gold project near Kamloops.

In 2010, we challenged Imperial Metals' "project-splitting" for its Red Chris mine at the Supreme Court, a tactic where companies divide major projects into smaller components to evade comprehensive environmental assessments. The victory was short-lived, however. It took the federal government only three months to amend the law to make the practice legal. It's still a major problem.

Today, environmental assessments remain deeply flawed. Opportunities are limited for government agencies to contribute scientific and technical knowledge, but they also have less to contribute after decades of budget and staff cuts. Project developers control information and timelines, and the public is more marginalized than ever in town hall-style meetings that have mostly moved online.

The future of environmental assessment lies in Indigenous and community-led processes. It's supposed to be a planning tool, and the focus must return to land use and community planning processes. MiningWatch will continue advocating for stronger federal and provincial regulations. But we have no illusion about the way decisions are made, and while we will also continue to work with communities to use these processes to their fullest extent, we are committed to building education, capacity, and consensus around mining impacts and development.



Highland Valley Tailings Lake, near Logan Lake B.C., Canada. The tailings lake spans approximately 10 km in length, and is located above the confluence of the Fraser and Thompson rivers. (Jeffrey Wynne)

## Mining is a waste management industry

Robust environmental assessments and community consent is critical, given that by its very nature as an extractive industry, mining poses significant and irreparable environmental harm. The greatest threat from mining is mine waste: metals represent only a small fraction of what's mined, with 95% to over 99% left as waste rock or processed as tailings.<sup>8</sup> These tailings are often laden with heavy metals and other toxic chemicals used for extraction, and can generate acid when sulphides in the rock react with oxygen and water to create sulphuric acid. Managing this waste, which remains hazardous for centuries, is both costly and challenging, which is why we have approached this multifaceted problem from several angles over the past 25 years.

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## Tracking toxic pollutants

When Canada's *Environmental Protection Act* came into force in 1999, mining was exempted from reporting under the National Pollutant Release Inventory (NPRI) – a key registry documenting pollutants released into the air, water, and land, and into waste disposal. We sued the federal government in 2007 to get this exemption lifted and succeeded, giving the public access to information about pollutants from mining activities in their communities for the first time.

## Natural water bodies shouldn't be used as mine waste dumps

Determining where to store the massive volumes of mine waste produced by mining activities is a constant preoccupation for the industry and affected communities alike. It is common practice to store mine waste in lakes and rivers, causing widespread environmental harm in Canada and globally. In 2002, the Canadian federal government changed its Metal Mining Effluent Regulations under the *Fisheries Act* to allow the industry to dump mine waste directly into fish-bearing lakes and rivers. While we success-

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8 For more on Canada's growing liabilities when it comes to mine waste, see: <https://miningwatch.ca/blog/2020/10/5/mine-waste-canada-growing-liability>

fully fought to close a legal loophole allowing tailings to be dumped directly in the ocean, over 200 fish-bearing lakes and rivers have been sacrificed or are set to be sacrificed to mining activities in the coming years.<sup>9</sup> Were it not for the ongoing and coordinated public response, however, this number would certainly be higher.

## Tailings safety

Mine waste is most often stored in above ground tailings facilities held back by massive earthen dams. These dams have grown considerably in size over the past 25 years, with some now reaching heights of 60-story buildings and lengths of several kilometres. If not built and maintained to the highest standards, these dams can pose deadly risks to watersheds and communities downstream when they fail – as happened in 2014, when the tailings dam failed at Imperial Metals’ Mount Polley mine in British Columbia, releasing 25 million cubic metres of water and tailings containing arsenic and lead directly into Polley and Quesnel Lakes.<sup>10</sup>

As mine sites grow and waste piles up, companies will often expand the size of their tailings facilities far beyond the initial scale and scope of the project. If approved, a proposed expansion at Hudbay Minerals’ Copper Mountain Mine would

create the world’s second-largest tailings dam, nearly seven times the height of the one at Mount Polley.<sup>11</sup> Hudbay is proposing incremental expansions to this site, which could avoid triggering an environmental assessment that could expose the true impacts and risks.

This is a problem with significant consequences. There are over 170 tailings dams in the province of British Columbia alone,<sup>12</sup> and as these dams age and face unprecedented weather extremes including atmospheric rivers and flash flooding, there is an increasing risk of catastrophic failure. Global concern surged following horrific tailings failures at Mount Polley in Canada (2014) and at Vale’s mines in Mariana (2015) and Brumadinho (2019) in Brazil. Yet the Global Industry Standard on Tailings Management, released in 2020, fails to address the real risks.

MiningWatch was a driving force behind “Safety First: Guidelines for Responsible Mine Tailings Management.”<sup>13</sup> Launched in 2020 and now in its second edition, the guidelines provide critical insight into the design, construction, operation, and closure of tailings facilities to better protect people and the environment. Recognizing that the safest tailings facility is the one that is not built, the guidelines also advocate for reducing the volume of tailings produced, as well

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9 As of November 2024, 83 water bodies or geographical areas were listed in Schedule 2 of the Metal and Diamond Mining Effluent Regulations (MDMER). <https://laws-lois.justice.gc.ca/eng/Regulations/SOR-2002-222/page-6.html#h-684982> The total number of fish-bearing water bodies that have been sacrificed to store mine waste is higher, however. For instance, on June 21, 2024, the federal government authorized the sacrifice of 37 water bodies to store mine waste for the Bloom Lake expansion project, owned by Quebec Iron Ore. But Appendix 2 contains only two lines to designate this series of lakes and rivers, without directly specifying the number. More research is needed to determine the exact total number of lakes and rivers sacrificed by the federal government. Government of Canada. *Regulations Amending the Metal and Diamond Mining Effluent Regulations: SOR/2024-145*. <https://canadagazette.gc.ca/rp-pr/p2/2024/2024-07-03/html/sor-dors145-eng.html>

10 For more on the Mount Polley disaster and the aftermath ten years later, see: Neil Nunn and Max Chewinski. *Learning from Disaster: A Decade After the Mount Polley Tailings Dam Failure*. The British Columbian Quarterly. Spring 2024. <https://ojs.library.ubc.ca/index.php/bcstudies/issue/view/183179>

11 Steph Kwetásel’wet Wood. *B.C.’s Copper Mountain mine proposes major tailings pond expansion, sparking cross-border concern*. The Narwhal. April 29, 2021. <https://thenarwhal.ca/bc-copper-mountain-mine-tailings-pond/>

12 As a member of the BC Mining Law Reform network, MiningWatch supported the creation of an interactive Mine Tailings Map to support local communities, First Nations, and other users with information about the location of, and risks associated with, tailings across the province of British Columbia. <https://reformbcmining.ca/tailings-map/>

13 Morrill, J. et al. *Safety First: Guidelines for Responsible Mine Tailings Management*. Earthworks, MiningWatch Canada and London Mining Network. 2022. <https://miningwatch.ca/sites/default/files/safetyfirst-safetailingsmanagement-v20.pdf>

as reducing the overall demand for primary raw minerals, to avoid the long-term liability of mine waste sites and their social and environmental impacts.

### Mining's toxic orphans

Managing mine waste presents many challenges, but by far, the biggest issue is time. Both the hazardous chemicals used in mining operations and the chemical reactions that occur as a result of unearthing bedrock can pose significant risks to groundwater for generations if not adequately monitored and treated.

Long-term water monitoring is not factored into a company's profitability and Canada consistently fails to ensure companies put up proper bonds for site closure prior to the start of operations. As a result, environmental disasters, company bankruptcies, and even falling commodity prices have prompted companies to abandon projects, leaving thousands of extremely hazardous projects littered across the Canadian landscape.

From early on, we recognized that abandoned mines pose an immediate and long-term threat to the environment and public health across Canada. In our first year, we worked with the Environmental Mining Council of British Columbia to develop a report, "Mining's Toxic Orphans: A Plan for Action on Federal Contaminated and Unsafe Mine Sites," showing the seriousness of the problem.<sup>14</sup> We identified at least 10,000 abandoned mine sites across Canada with billions of tonnes of toxic mine waste, indicating the extent of government liability for cleanup.

*We identified at least 10,000 abandoned mine sites across Canada with billions of tonnes of toxic mine waste.*

We used these findings to lobby and engage with industry and government players, and this work has seen some important success. It led to the National Orphaned/Abandoned Mines Initiative (NOAMI) in 2002 and the Federal Contaminated Sites Action Plan in 2005. Along with military sites, the federal government is now responsible for cleaning up abandoned mines north of 60°. In some instances, companies are now required to post much higher clean-up bonds.

But while these initiatives have advanced strategies and secured some funds for addressing abandoned sites, the costs remain staggering; the cleanup of the Giant mine in Yellowknife, for instance, is currently projected to cost taxpayers \$4.38 billion, vastly exceeding the value of all the gold ever extracted out of the mine.<sup>15</sup> And that projection is just to clean up the site and stabilize the highly toxic arsenic trioxide stores, which will have to be monitored forever.

MiningWatch continues to advocate for stricter requirements for closure and long-term water monitoring, including stronger requirements for adequate cleanup bonds and, more importantly, for projects to be rejected outright if they will create excessive environmental liabilities.

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14 MiningWatch Canada. *Mining's Toxic Orphans: A Plan for Action on Federal Contaminated and Unsafe Mine Sites*. January 2000. [https://miningwatch.ca/sites/default/files/minings\\_toxic\\_orphans.pdf](https://miningwatch.ca/sites/default/files/minings_toxic_orphans.pdf)

15 Sidney Cohen. *Cost of cleaning up Yellowknife's Giant Mine now pegged at \$4.38B, up from \$1B*. CBC News. November 10, 2022. <https://www.cbc.ca/news/canada/north/giant-mine-remediation-cost-4-billion-1.6647952>

## Subsidies to a harmful industry

Not only do governments at all levels assume enormous costs and liabilities when it comes to mining, governments further grant the industry large breaks on taxes and royalties. In 2002, we collaborated with the Pembina Institute to publish our first major research paper, “Looking Beneath the Surface: An Assessment of the Value of Public Support for the Metal Mining Industry in Canada.”<sup>16</sup> The findings were astonishing.

First, the government gives the industry an effective subsidy under the “free entry” system by providing free access to land and requiring the industry to pay remarkably little for the loss or depletion of non-renewable resources.

Governments use public funds to build roads and power lines to service these projects, eager to build infrastructure for mining development even as Indigenous communities in those same regions struggle with grossly inadequate housing, water, and sanitation infrastructure. More

public funds are all too often needed for clean-up once mining operations stop.

We also found a wide range of effective subsidies through tax incentives, ranging from tax credits for mining exploration and development, to accelerated capital costs allowances, to tax holidays and exemptions. Perhaps most egregious: flow-through shares, which allow investors to claim a tax deduction equal to their investment. This practice channels substantial public money to exploration companies with no consideration for harm caused by exploration activities, no oversight or accountability for where that activity takes place, and no consideration for recovering the public investment if there is a valuable discovery.

Most astonishingly, we found that governments actually have no idea what some of those subsidies are worth, and no idea what tangible benefit they bring the public – if any. This research set an ambitious agenda for us that still continues today.

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16 MiningWatch Canada and Pembina Institute for Appropriate Development. *Looking Beneath the Surface: An Assessment of the Value of Public Support for the Metal Mining Industry in Canada*. October 2002. <https://miningwatch.ca/sites/default/files/belowthesurface-eng.pdf>



Left: Members of the Gitxaala First Nation walk to the courthouse in Vancouver, B.C. to challenge the province’s Mineral Tenure Act. (BCMLR); Right: Members of the Western Mining Action Network visit Hazelton Creek in British Columbia in 2019, destroyed by the 2014 Mount Polley disaster. (MiningWatch Canada)



Women walk along the mine wall beside Barrick Gold's North Mara Mine in Tanzania.  
(C. Coumans, MiningWatch Canada)

## International: Solidarity and pushing for corporate accountability

Over the last 25 years, MiningWatch has been flooded with requests for support from communities harmed by the actions of Canadian mining companies operating abroad. The harm is significant: killings, maimings and sexual assault by mine security and police guarding mines, forced evictions, loss of livelihoods, projects imposed in violation of Indigenous rights to consent, threats to human and environmental rights defenders, forced labour, health impacts caused by contaminated soil, air, and drinking water, destruction of sacred sites, and pervasive and long-lasting environmental degradation.<sup>17</sup>

People reach out to us for obvious and logical reasons. They are dealing with a Canadian-domiciled company raising money through Canadian stock exchanges, that makes strategic decisions in Canada about how it will conduct

its operations abroad, and that almost certainly receives financial and/or political support from the Canadian government.

The sheer quantity of Canadian mining companies advancing projects throughout the world accounts for high levels of harm. While the numbers shift, Canada hosts more mining companies than any other country; more than 1,400 mining and exploration companies that operate in nearly 100 countries.<sup>18</sup> But what accounts for Canada's mining dominance?

Both Canada's historical role as a source of raw materials for European colonizer countries and its development as a settler colonial state predicated on land theft from Indigenous peoples have greatly influenced its present status as a "mining country." Prioritizing mining as the

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17 For examples of these harms see, Catherine Coumans. *Canada's Mining Dominance and Failure to Protect Environmental and Human Rights Abroad: Brief Accompanying Testimony provided by Catherine Coumans of MiningWatch Canada on February 6, before The House of Commons' Standing Committee on International Trade (CIIT)*. MiningWatch Canada. February 2023. <https://www.miningwatch.ca/sites/default/files/backgroundbriefcanadasrole-inminingabuseabroadfebruary142023.pdf>

18 Government of Canada. *Canadian Mining Assets*. January 2024. <https://natural-resources.canada.ca/maps-tools-and-publications/publications/minerals-mining-publications/canadian-mining-assets/19323>



highest and best use of land has proved fertile ground for developing expertise in mining financing, mine engineering, and specialized legal and consulting services. This hub of mining expertise explains, in part, why Canada has become a premier destination for multinationals to headquarter.

Canada's weak financial regulations are also very attractive to multinationals. Weak disclosure requirements mean that companies don't have to inform shareholders – or anybody – in-depth about the harmful impacts of their operations, and weak transparency rules facilitate tax avoidance, especially through offshore subsidiaries. Canada's effective role as a tax haven or a "flag of convenience" explains why many mining multinationals legally domiciled in Canada have only a post office box or a lawyer's office here.

Strong government political and financial support for Canadian companies operating overseas is also a selling feature. Canadian embassies and high commissions are mandated to promote and protect Canadian mining interests abroad,<sup>19</sup> granting mining companies access to essential trade commissioner services, for example in handling tax disputes with counties overseas, while being backed by provisions in free trade and investment agreements that protect their profit potential.

Whether a mining company employs thousands of workers in Canada or none, whether it pays taxes here, whether its CEO lives in Canada or rarely sets foot here, companies know that by headquartering here, they enjoy the suite of benefits offered by the Canadian government and are shielded from accountability. Over 25 years, we have seen little meaningful change – but we

have become experts in the many ways Canada dodges its duty to reign in corporate abuse and protect human rights. It is well past time for change.

## *Canada still has no laws in place to meaningfully hold Canadian companies accountable for abuse overseas.*

### Attempted justice through the courts

Canada still has no laws in place to meaningfully hold Canadian companies accountable for abuse overseas. The only relevant Canadian law that applies is the *Corruption of Foreign Public Officials Act*, an anti-bribery law with limited scope that is best known for its weak enforcement.

When MiningWatch was formed in 1999, only one transnational civil suit had ever been brought against a Canadian mining multinational in Canada. Twenty-three thousand people from Guyana filed a class action suit in 1997 against Cambior Inc. for negligence after its Omai mine tailings dam failed, spilling 1.5 billion litres of cyanide-laced gold mine waste into the Omai and Essequibo rivers in 1995. A Canadian court refused to hear the case in 1998 on the grounds that the courts in Guyana were in a better position to hear it, creating an 11-year freeze on new transnational cases brought against Canadian mining companies in Canada. Since 2009, only a handful of other cases have advanced. Three were dismissed and five were set-

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19 Since late 2013, the mandate of Canadian overseas missions to promote and protect Canadian interests abroad was strengthened further under Canada's *Global Markets Action Plan*, defining its approach to "economic diplomacy." For more on the harms of this approach, see MiningWatch's 2024 brief to UN Special Rapporteur on the situation of human rights defenders Mary Lawlor, "Putting Voices at Risk: Government of Canada prioritizes economic interests of Canadian mining companies over the safety of human rights and environmental defenders." [https://miningwatch.ca/sites/default/files/unbrief\\_marylawlor\\_june2024.pdf](https://miningwatch.ca/sites/default/files/unbrief_marylawlor_june2024.pdf)

tled out of court on behalf of the plaintiffs.<sup>20</sup> Six of the total of nine cases brought involve alleged violence by mine security against local community members including shootings, beatings, killings, torture, and rape. MiningWatch supported the affected communities in a number of these cases and we have seen how difficult it is to bring forward a case. When it comes to seeking justice for harms committed by Canadian mining companies operating abroad, courts in Canada, with rare exceptions, remain effectively closed.

## Creating and strengthening non-judicial mechanisms

In 1999, Canada was not only a hostile jurisdiction for legal action by foreign victims of mining abuse, but it also had no non-judicial mechanisms for corporate accountability. We realized early on that both are important. In many cases, communities want the harm to stop, and want access to remedy, but may prefer to avoid

lengthy, stressful, costly, and unpredictable legal battles.

In 2000, Canada moved to implement the OECD's voluntary Guidelines for Multinational Enterprises by setting up a "National Contact Point" (NCP) – an office mandated to accept complaints about corporate violations of the Guidelines. Nineteen of the 26 cases brought to this office since have involved a Canadian mining company, but the office remains ineffective by design. Unlike NCPs in other countries, Canada's NCP never makes determinations about whether companies have actually violated OECD Guidelines and none of the mining cases have resulted in remedy for those who alleged harm. In fact, many accounts from people who have gone through this process say it deepened the harm they experienced.<sup>21</sup>

For our first five years, the primary response we received from Members of Parliament, civil servants, and the media about allegations of egregious human rights violations tied to Ca-

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20 On November 27, 2024, Ontario's Superior Court of Justice dismissed a lawsuit filed against Barrick Gold by 32 Indigenous Kuria plaintiffs from Tanzania who allege that Tanzanian police who provide security at Barrick's North Mara Gold Mine shot, beat and tortured several of their family members, leading to death in some cases. It remains unclear at the time of publication whether plaintiffs will appeal the decision.

21 MiningWatch Canada and OECD Watch. *Proposed revisions to National Contact Point procedures again fall short of necessary reforms*. May 2002. [https://miningwatch.ca/sites/default/files/feedbackncpproposedrevisedproceduresmay2020220\\_0.pdf](https://miningwatch.ca/sites/default/files/feedbackncpproposedrevisedproceduresmay2020220_0.pdf)



Left: Armed paramilitary at TVI Pacific check point, Siocon, Philippines circa 2004. (C. Coumans, MiningWatch Canada); Right: Kanak leaders speak at a press conference in Ottawa in 2003 to denounce Inco's proposed Goro nickel mine in New Caledonia. (C. Coumans, MiningWatch Canada)

nadian mining companies was skepticism, even disbelief. The tipping point came in 2004, however, when we supported a visit to Canada by Indigenous Subanon leaders from Canatuan, on the Philippine Island of Mindanao. Their testimony before the House of Commons Subcommittee on Human Rights and International Development played a pivotal role in a strong parliamentary report published the following year, chastising the NCP for its failures and recommending that Canada establish clear legal norms to ensure corporate accountability.<sup>22</sup>

Predictably, Canada's response to the report was weak, but it did set up multi-stakeholder roundtables in 2006 that provided a rare opportunity for those affected by Canadian companies to come to Canada to testify about their experiences and sparked significant media attention.

We sat on the roundtables' Advisory Group, co-writing the final National Roundtable report in 2007. The public discussion shifted markedly in this time, from skepticism about whether there is a problem, to focus on what the solutions to the problem should be.

As early as 2005 we had convened our own roundtable<sup>23</sup> and started to develop a policy framework for the regulation of Canadian mining companies operating internationally.<sup>24</sup> We heard from legal experts and partners in the Global South on the need for regulation and how it could be framed, underscoring that the most politically feasible measure would be to withhold government political and financial support from companies implicated in abuses. This demand would become central to the next 19 years of campaigning and remains relevant today.

22 Government of Canada. *Mining in Developing Countries: Corporate Social Responsibility*. 14th Report. 38th Parliament, 1st Session. March 2005. <https://www.ourcommons.ca/DocumentViewer/en/38-1/FAAE/report-14>

23 MiningWatch Canada. *Regulating Canadian Mining Companies Operating Internationally: background documents*. October 2005. <https://miningwatch.ca/blog/2005/10/20/regulating-canadian-mining-companies-operating-internationally-background-documents>

24 MiningWatch Canada. *Policy Framework for the Regulation of Canadian Mining Companies Operating Internationally*. November 2005. <https://miningwatch.ca/sites/default/files/2policyframework.pdf>



## Growing calls for change

Responding to the 2005 parliamentary report really galvanised civil society participation around these issues. The Canadian Network on Corporate Accountability (CNCA) was established during this time, co-founded by MiningWatch, to consolidate and articulate civil society momentum and concern about the patterns of abuse tied to Canadian companies operating overseas. Today, the network has grown to over 40 member organizations from civil society working to end corporate abuse in the global operations and supply chains of Canadian companies. MiningWatch has consistently played a leadership role on the Steering Committee.

Top: All-party press conference in 2022 following the tabling of Bill C-262 and C-263, which would introduce due diligence legislation and would grant the CORE investigatory powers. (CNCA); Bottom: CNCA members present a petition in 2023 signed by over 43,000 Canadians demanding action on corporate accountability. (CNCA)

Following a recommendation in the National Roundtable report of 2007, MiningWatch began lobbying, with the CNCA, for an extractive sector ombudsperson – an effective corporate watchdog that would be independent with the necessary powers to conduct thorough investigations into allegations of abuse, and who could make recommendations to withdraw critical government support to Canadian mining companies found to be violating human rights. Instead, the federal government created a “CSR Counsellor” in 2009 with a weak mandate that proved completely ineffective. It was eventually discontinued in 2018. Also in 2009, private members’ Bill C-300<sup>25</sup> was tabled, which reflected components of our ombudsperson ask. It was narrowly defeated the next year in Parliament by six votes, but extensive committee hearings on the bill provided further opportunities for education, outreach and testimony, including by mining-affected peoples. The movement for corporate accountability was growing!

Together with the CNCA, we finally succeeded in securing a Government of Canada commitment to an effective ombudsperson in January 2018. However, by the time the government order establishing the Canadian Ombudsperson for Responsible Enterprise (CORE) finally came through, more than a year later, intensive industry lobbying had succeeded in removing the office’s independence, as well as the necessary investigatory powers the government had committed to give the CORE. Five years after the office was established, we voiced our concerns during the Government of Canada’s 2024 review of the CORE<sup>26</sup> – signalling that the need for an effective CORE is as great as it has ever been, but it must be granted now the investigatory powers to compel documents and witness testimony and it must be independent from the government.



An altar for Mariano Abarca. (Jen Moore)

## Attacks against environmental defenders

Mariano Abarca was a Mexican environmental defender killed in 2009 while speaking out against the Canadian mining company Blackfire Exploration. Over 1000 pages of internal embassy documents reveal how the Canadian Embassy in Mexico lobbied Mexican officials to advance Blackfire’s operations, putting Mariano’s life at greater risk. Exhausting the extremely limited legal avenues in Canada for justice, MiningWatch has co-filed a petition alongside Mariano’s family, lawyers, and the Justice and Corporate Accountability Project (JCAP) against Canada before the Inter-American Commission on Human Rights – the first-ever petition to examine the role Canadian embassies play in possibly endangering the lives of environmental defenders through their support for Canadian mining interests. *Learn more at [justice4mariano.net](http://justice4mariano.net)*

25 Government of Canada. *Corporate Accountability of Mining, Oil and Gas Corporations in Developing Countries Act*. April 2009. <https://openparliament.ca/bills/40-3/C-300/#:~:text=The%20purpose%20of%20this%20enactment,Canadian%20corporations%20in%20developing%20countries>

26 MiningWatch Canada. *Submission to Canadian Ombudsperson for Responsible Enterprise Review Committee*. October 28, 2024. <https://miningwatch.ca/sites/default/files/core-review-submission-october-28-2024.pdf>



Left: Residents of Didipio block access to the OceanaGold mine in the province of Nueva Vizcaya in The Philippines in 2019. (Kalikasan PNE); Right: Activists protest outside Nevsun’s annual shareholder meeting in Vancouver 2019, to denounce slave labour at the company’s mine in Eritrea. (Amnesty International Canada)



## A pathway to accountability: Binding due diligence legislation

In 20 years since the 2005 parliamentary report called for “legal norms” to hold Canadian mining companies to account, successive federal governments – Conservative and Liberal alike – have used strategies from the same playbook to avoid this call. In the face of a steady stream of allegations of abuse tied to Canadian mining companies, with persistent demands for effective action from civil society, Canada has responded with a series of voluntary guidelines.<sup>27</sup>

As mining operations expand globally, both the harm they cause and the recognition of that harm has grown. In response, there has been a global proliferation of voluntary initiatives and guidelines over the past 25 years claiming to address mining’s devastating impacts, starting with the UN Global Compact and the Voluntary Principles on Security and Human Rights in 2000. But none of these voluntary initiatives have changed the ongoing harm caused by mining projects

around the world. It comes as no surprise that asking companies accused of horrific abuse to be their own judge and jury has failed to rein in bad behaviour.

That’s why we’ve been pushing with the CNCA for Canada to adopt strong mandatory human rights and environmental due diligence legislation. The Government of Canada needs to mandate by law that Canadian companies operating overseas take concrete measures to identify and prevent human rights and environmental abuses caused by their operations (including those of subsidiaries and contractors) and report publicly on their efforts. The legislation will also create a legal cause of action that will allow anyone harmed by a Canadian company operating overseas, or its subsidiaries and contractors, to file a suit in Canadian courts.

Voluntary measures have failed. But the CNCA’s model due diligence legislation presents the path forward that we need.<sup>28</sup>

27 There have been a series of voluntary government policies starting with “Building the Canadian Advantage: A Corporate Social Responsibility (CSR) Strategy for the Canadian International Extractive Sector” (2009) to the most recent, “Responsible Business Conduct Abroad: Canada’s Strategy for the Future: (2022). And while the Canadian government maintains that it “expects” Canadian companies to “respect human rights and abide by applicable laws wherever they operate in Canada and foreign countries” it does not require them to do so and refuses even to acknowledge when these companies are operating illegally or abusing rights.

28 Canadian Network on Corporate Accountability. *Model Legislation for Mandatory Human Rights and Environmental Due Diligence*. <https://cnca-rcrce.ca/model-legislation-due-diligence/>

# Looking Ahead: An intensification of mining meets powerful resistance

## Our theory of change

MiningWatch's theory of change is straightforward. Access to remedy for the harms caused by the mining industry is a crucial component of our work. But establishing strong legal mechanisms to prevent harm in the first place is what will lead to lasting change.

We've spent the last 25 years working to ensure that when a mining company first enters a community, it runs into *something* – it doesn't just land on top of people.

What it runs into could be an effective assessment process to determine the true environmental and social impact of a proposed project, with the teeth to weed out projects whose cost is too high. It could be a higher standard for tailings safety, ensuring that industrial projects are built to withstand flash floods and the other stark realities of climate change. It could mean being required to conduct human rights and environmental due diligence, forcing companies to think through the environmental and human rights implications of their projects and take adequate steps to prevent abuse from happening in the first place. Ideally, it means all of these mechanisms and more, to bridge the divide between how mining currently happens and how it should.

But most importantly, it means that companies are met with strong community organizing, whereby communities have effective processes for first determining *if mining should take place at all*, where mining could be appropriate and under what conditions, have the power to negotiate for better outcomes and benefit agreements and, above all else, where their right to say no is respected.

MiningWatch has worked over these years to empower people in their understanding of how mining works in all senses: the basic technical aspects of the entire mining lifecycle, the complexities around financing, the multitude of ways the Canadian government supports this industry, common corporate tactics to gain a foothold in communities, and beyond. Sharing this knowledge when mining is just getting started or when there is a looming threat can make a real difference when it comes to preventing harm. This may mean supporting communities with additional tools like corporate research or independent environmental assessments or water testing, and potential outlets for advocacy as they set their own agendas and strategies.

And if we are not the right organization, we can often connect communities to the one they need. For this reason, we led in the creation of the recently-launched "Find An Independent Mining Expert" (FAIME) database, an online collection of global experts for organizations that support Indigenous and other communities affected by mining, to increase access to scientific, socio-economic, legal, and technical services to better prevent and mitigate the impacts of mining.<sup>29</sup>

All of this work is having an impact. We've seen a notable shift over the last 25 years in the timing and dynamics of community intervention. As people become better informed and more experienced in the tangible impacts of mining, plugging into strong regional networks of support that have formed globally, they are approaching us at a much earlier stage in mine development as they ready themselves to mount strong campaigns to prevent further harm from happening.

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29 See more at: <https://www.faime.org>

We see our collaboration in what is truly a global and collective effort towards early intervention as the single biggest contribution of MiningWatch these past 25 years. This momentum is undoubtedly positive.

However, as we reflect on this important milestone, we must reckon with the fact that communities are also intervening at earlier stages because more and more communities are being impacted by new exploration projects in areas that have rarely before seen industrial mining. Twenty-five years after the founding of MiningWatch, we're seeing an acceleration of mining across the globe like we've never seen before. Why is this happening? What is to be done?

## Economic diplomacy and trade

The global trade and investment rules established in the 1990s around the time MiningWatch was formed have played a major role in facilitating the massive expansion of mining across the world. Today, Canada has 15 free trade agreements in force with 51 different countries and another 14 under negotiation or awaiting ratification, with dozens more bilateral investment agreements in effect.<sup>30</sup> Canada is currently in final rounds of negotiation for a trade deal with Ecuador, an agreement which representatives of both countries have explicitly said is to advance mining investment in the country. This is happening amidst a crackdown on social protest, criminalization of community leaders, and militarization of the areas surrounding existing Canadian exploration projects.<sup>31</sup>

Canada routinely negotiates the nefarious Investor-State Dispute Settlement (ISDS) mechanism into these agreements – a legal mechanism that allows companies to sue governments in supranational tribunals if they feel their potential profit has been impeded by state decisions, such as revoking or failing to approve or renew a mining permit, or by raising royalties.

Not infrequently, in the wake of hard-won battles by affected communities to protect their territories and prevent transnational companies from mining, those same companies have sued in closed-door tribunals, bringing multi-million or billion-dollar claims against the host government. We've seen explosive growth both in the use of ISDS and in the amounts claimed by mining companies.<sup>32</sup> Twenty-eight claims were filed against countries in Latin America and the Caribbean in 2023 alone, where governments have been ordered to pay billions in compensation to foreign investors.<sup>33</sup>

The duplicity of mining companies' claimed commitment to contributing to community well-being while threatening state finances, potentially taking funds away from critical budgets like health and education, is stunning. The mere potential of such lawsuits creates what David Boyd, former UN Special Rapporteur on human rights and the environment, refers to as "regulatory chill" on countries' willingness to make decisions in the interests of protecting water, human rights, and state sovereignty.

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30 Government of Canada. *Canada's Free Trade Agreements*. Accessed November 2024. <https://www.tradecommissioner.gc.ca/fta-ale-canada.aspx?lang=eng>

31 Read more about the harms tied to existing Canadian mining projects in Ecuador: MiningWatch Canada. *Canada's Mining Footprint in Ecuador: A brief on the impacts of mining as trade negotiations advance*. September 2024. [https://miningwatch.ca/sites/default/files/brief\\_mining\\_impact\\_ecuador\\_fta\\_2024.pdf](https://miningwatch.ca/sites/default/files/brief_mining_impact_ecuador_fta_2024.pdf)

32 Some companies are even using ISDS threats as a speculative investment strategy, whereby companies seek permits in areas that are likely to be denied, knowing they may reap a windfall through international arbitration. There are even hedge funds and law firms that specialize in financing and pursuing such claims. See more: MiningWatch Canada, Centre for Environmental Law, Institute for Policy Studies. *Extraction Casino: Mining companies gambling with Latin American lives and sovereignty through supranational arbitration*. [https://miningwatch.ca/sites/default/files/ISDS\\_report\\_final.pdf](https://miningwatch.ca/sites/default/files/ISDS_report_final.pdf)

33 Bettina Müller, Luciana Ghiotto. *ISDS in numbers: Impacts of investment arbitration against Latin America and The Caribbean*. Transnational Institute. October 2024. <https://www.tni.org/en/publication/isds-in-numbers-1>



Even Chrystia Freeland, who was Canada's foreign affairs minister when it came time to renegotiate the North American Free Trade Agreement (NAFTA) in 2018, successfully took this version of ISDS off the table, proudly saying, "ISDS elevates the rights of corporations over those of sovereign governments. In removing it, we have strengthened our government's right to regulate in the public interest, to protect public health and the environment."<sup>34</sup> Yet Canada continues to advocate for its inclusion in trade deals to protect mining interests, and frequently goes to bat to support Canadian mining companies who use it.

Globally, in the face of threatened or actual lawsuits, governments have backtracked on important decisions to deny approval to mining projects, shut down a mine, or not renew its lease or grant a permit. For instance, after 20 years of operation, Canadian mining giant Barrick Gold was denied a permit renewal in 2020 for its Porgera Joint Venture gold mine in Papua New Guinea. After the company filed an ISDS suit against the PNG government, the government backed down and today, the mine is back in operation.

Barrick was already well-versed in using ISDS. Shortly before it filed against PNG, Barrick and

## Stop the suits!

In 2015, MiningWatch helped organize the "Stop the Suits" tour of Salvadoran activists to Canada, in anticipation of an imminent ruling from the World Bank-run International Centre for the Settlement of Investment Disputes (ICSID). A ruling from the tribunal could have forced El Salvador to pay Canadian-Australian mining firm OceanaGold \$301 million – equivalent to 5% of El Salvador's gross domestic product – for not allowing it to build a gold mine. The project had not even met the relevant regulatory requirements. In this rare case, the tribunal found in favour of El Salvador, which was awarded \$8 million to recuperate some of its legal costs.

Nothing can bring back the activists murdered for opposing the mine, or compensate the communities or the government of El Salvador for the seven years they spent fighting this case. But the tour, which was an internationally coordinated success, helped draw much-needed attention to how investor-state arbitration threatens democratic decision-making, public health and the environment.

Photo: Members of the Mining Injustice Solidarity Network (MISN) and allies organize a "Kangaroo Court" in Toronto's financial district in solidarity with the people of El Salvador, to highlight the secretive way international arbitration lawsuits are settled. (Allan Lissner)

its joint venture Chilean partner Antofagasta had won a \$11 billion ruling at the World Bank's International Centre for Settlement of Investment Disputes (ICSID) against Pakistan, when the company was denied a permit to exploit its Reko Diq claim in the province of Balochistan.<sup>35</sup>

34 Office of the Right Honourable Justin Trudeau, Prime Minister of Canada. *Prime Minister Trudeau and Minister Freeland speaking notes for the United States-Mexico-Canada Agreement press conference*. October 1, 2018. <https://www.pm.gc.ca/en/news/speeches/2018/10/01/prime-minister-trudeau-and-minister-freeland-speaking-notes-united-states>

35 Asif Shahzad. *Pakistan's top court endorses Barrick Gold's \$10 bln mining investment*. Reuters. December 9, 2022. <https://www.reuters.com/markets/asia/pakistans-court-endorses-settlement-with-barrick-gold-over-mining-project-2022-12-09>



Negotiations ensued and, according to Barrick, mining operations are now set to begin in 2028. Through the use of ISDS, we see companies effectively hold governments hostage in order to bring mining projects into production, to extend the life of a mine far beyond what was initially proposed, or just to extract compensation. As long as these types of agreements remain in place, mining will continue to accelerate – at the whim of investors, while ignoring the needs of those most impacted by these projects.

## Preventing a rush of new mining projects by reforming unjust trade deals

MiningWatch is supporting a growing global movement that urges governments to withdraw from unjust trade agreements that include ISDS and that undermine democracy and prioritize the interests of foreign investors over the protection of people’s health, vital ecosystems, and the climate. This work is certainly not new. Powerful protests in 1999 in Seattle and 2001 in Québec City were already part of a global movement to counter increasing corporate control and protect against corporate abuse of power. These movements have faced significant setbacks over the years, but now the dangers of such unjust structures are plain to see and some governments – not just social movements – are trying to extricate themselves from over-reaching corporate investment protection. Several countries in Latin America have already withdrawn from the International Centre for Settlement of Investment Disputes, while many more across the globe have ended bilateral investment agreements or have withdrawn from major

investment treaties due in part to the presence of ISDS clauses.

This year, Ecuador reaffirmed its constitutional ban on ISDS during a national referendum; at the same time, Ecuadorians are urgently calling for a stop to the Canada-Ecuador free trade agreement negotiations that may include ISDS provisions despite the ban.<sup>36</sup> Together with other allies, MiningWatch supported a delegation of Indigenous women and rights defenders from Ecuador to Canada in 2024 to amplify this call.

As Zenaida Yasacama, Vice President of the Confederation of Indigenous Nationalities in Ecuador, said during a press conference on Parliament Hill: “The expansion and intensification of Canadian mining activity in the territory of Indigenous peoples and campesino communities has led to the deforestation and destruction of vital wetlands, forests, and ancestral territories. This situation not only threatens our biodiversity, but also endangers the life and culture of our peoples. We reiterate our profound rejection of the free trade agreement that is being negotiated, which will further open the door to abuses and human rights violations by mining companies.”<sup>37</sup>



Zenaida Yasacama, Vice President of CONAIE, speaks at a 2024 press conference on Parliament Hill. (CPAC)

36 Alianza por los derechos humanos Ecuador. *Alertamos sobre las amenazas del Tratado de Libre Comercio TLC de Ecuador-Canadá: un pacto que expande la minería y vulnera los derechos humanos, de la naturaleza y la soberanía nacional*. October 22, 2024. <https://alianzaddhh.org/alertamos-sobre-las-amenazas-del-tratado-de-libre-comercio-tlc-de-ecuador-canada-un-pacto-que-expande-la-mineria-y-vulnera-los-derechos-humanos-de-la-naturaleza-y-la-soberania-nacional>

37 CPAC. *Ecuadorian Women Bring Mining Concerns to Ottawa*. October 2, 2024. <https://cpac.ca/headline-politics/episode/ecuadorian-women-bring-mining-concerns-to-ottawa-october-2-2024?id=d404d6c9-a0d5-49f6-ab5b-66362dc6f797>



Left: There are mining concessions of the Falchani (lithium) and Macusani (uranium) projects around and on top of the Quelccaya glacier in Puno, Peru. (DHUMA); Right: Salt flats in Chile for lithium. (Ramón Balcázar)

## The race for critical minerals: New framing for an old agenda

Trade agreements aren't the only mechanism responsible for the acceleration in mining. Around 2016, the material realities of a global energy transition were becoming more apparent. Increasingly, the electrification of the transportation sector was becoming the focal point for this transition, with the average electric vehicle requiring roughly six times the amount of metals and minerals of a gasoline-powered one.<sup>38</sup> The World Bank and the International Energy Agency were predicting that global metal and mineral output would need to increase anywhere from 2 to 20-fold by 2050 to meet transition technology demands, with a particular focus on copper, lithium, nickel, graphite, cobalt, and rare earths. All of this meant more mining.

Around that time, we saw a major narrative shift in the mining industry. Companies began pitching their destructive mining projects as

“green” and “climate friendly,” positioning themselves to mining-affected communities, governments, and investors alike as the sponsors of the transition to renewable energy. Simultaneously, they were using demand projections as grounds to secure more government funding for exploration and major investments from investors looking to capitalize on this metal-intensive energy transition.

Meanwhile, communities from Chile to Québec to Papua New Guinea were sounding the alarm and declaring that they were not willing to be the “sacrifice zones” for this new electrified economy and for the continued overconsumption by the Global North. What was to be done?

In 2019, we invited some of these communities and many allies to our “Turning Down the Heat” conference to answer this key question: Can we mine our way out of the climate crisis?<sup>39</sup> Speaker after speaker described a scenario in which the global mining industry, itself responsible for some of the worst environmental disasters in history,

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38 International Energy Agency. *World Energy Outlook Special Report: The Role of Critical Minerals in Clean Energy Transitions*. March 2022. <https://www.iea.org/reports/the-role-of-critical-minerals-in-clean-energy-transitions/executive-summary>

39 Read more about the conference, key themes, and conclusions in the report: MiningWatch Canada. *Turning Down the Heat: Can we mine our way out of the climate crisis?* November 2020. [https://miningwatch.ca/sites/default/files/miningwatch\\_review\\_page.pdf](https://miningwatch.ca/sites/default/files/miningwatch_review_page.pdf)

was leveraging demand projections for transition metals to justify a lightning expansion of resource extraction, a push for lower standards, and for fast-tracking projects without Indigenous consent or adequate environmental safeguards, while greenwashing their activities as environmentally responsible and fully justified as part of the energy transition.

Our conference set the stage for the work in the years to come. In 2021, we joined forces with the Environmental Justice Atlas and 25 communities across the Americas to document and denounce new efforts to greenwash existing mining projects under this energy transition paradigm.<sup>40</sup> We denounced an onslaught of mining claims and new “energy transition” mining projects across the Americas, causing land grabs and widespread speculation in this new rush for certain metals.

Since then, the federal government and several provincial and territorial governments have released a series of “Critical Minerals” strategies aimed at accelerating the extraction of metals and minerals broadly deemed strategic to national interests. These policies unleash billions in tax incentives and direct subsidies to expand mining operations in Canada and compete in the energy transition market by positioning Canada as a source for some battery metals and at least a participant in battery and EV manufacturing.<sup>41</sup>

When the federal *Critical Minerals Strategy* was first released in 2022, the government’s public messaging was largely focused on the energy transition.<sup>42</sup> The strategy was even launched the same week Canada played host to the global COP-15 Conference on Biodiversity, which recognized the catastrophic loss of biodiversity across the globe and saw countries like Canada commit to protect 30 percent of lands by 2030 – ironic given that the boom in mining claims can make protecting lands that much harder. The strategy included 31 metals and minerals identified by the government as “critical,” useful for a wide range of purposes from battery technology to healthcare, to weapons manufacturing.

By the time the federal government released its updated list of critical minerals in 2024, the tone had slightly shifted.<sup>43</sup> Concerns related to economic recovery post-COVID, issues with supply chains and rising inflation, increased global insecurity with the wars in Ukraine and Gaza, and other issues competing for global attention shifted the focus towards advancing Canada’s economic interests and ensuring national security. In fact, around the same time, the US Department of Defense announced a major investment in a Québec graphite mine, originally pitched to affected communities as an energy transition project<sup>44</sup> – one of the first such direct investments and likely signalling a growing trend in the years to come.

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40 Environmental Justice Atlas, MiningWatch Canada. *Mapping Community Resistance to the Impacts and Discourses of Mining for the Energy Transition in the Americas*. November 2021. [https://miningwatch.ca/sites/default/files/2022-03-04\\_report\\_in\\_english\\_ejatlasmwc.pdf](https://miningwatch.ca/sites/default/files/2022-03-04_report_in_english_ejatlasmwc.pdf)

41 MiningWatch has issued several responses over the past few years to the different federal and provincial Critical Minerals strategies. See for example: Jamie Kneen. *How Critical Are Your Minerals? New Federal Strategy Doesn't Look Very New*. December 9, 2022. <https://miningwatch.ca/blog/2022/12/9/how-critical-are-your-minerals-new-federal-strategy-doesnt-look-very-new>

42 Government of Canada. *The Canadian Critical Minerals Strategy. From exploration to recycling: Powering the Green and Digital Economy for Canada and the World*. <https://www.canada.ca/en/campaign/critical-minerals-in-canada/canadian-critical-minerals-strategy.html>

43 Government of Canada. *Canada's Critical Minerals*. <https://www.canada.ca/en/campaign/critical-minerals-in-canada/critical-minerals-an-opportunity-for-canada.html>

44 Coalition Québec meilleure mine and MiningWatch Canada. *Energy transition or more militarism? US defence subsidies for a graphite mine near Montreal provokes anger in civil society*. June 3, 2024. <https://miningwatch.ca/news/2024/6/3/energy-transition-or-more-militarism-us-defence-subsidies-graphite-mine-near-montreal>

Over the past 25 years, we've seen that the Canadian government and mining industry's response to complex and deeply rooted social justice problems, even those caused by mining, is the same: more mining. Canada continues to actively support and promote the expansion of mining for precious metals like gold that are not explicitly part of critical minerals strategies; nowhere do we see incentives being cut from gold mining in order to focus support on the development of these so-called energy transition projects. Instead of meaningfully addressing the existential climate crisis we are facing, Canada's Critical Minerals Strategy is a roadmap to ensure we continue to be a country dominated by resource extraction for generations to come.

## Preventing sacrifice zones and protecting water as critical

The pace at which mining is expanding across the world is staggering, but so is the number of places where communities are fiercely struggling to protect water, defend territory, and exert Indigenous rights and sovereignty. A major focus remains on preventing harm before it starts.

Industrial mining may soon begin in the least-studied and most sensitive ecosystem on the planet – the deep seabed. The full scope of impacts is unknown, but it is clear that deep sea mining would cause irreversible harm to countless deep sea species, destroying habitats that have taken millions of years to form and that will not recover in human time scales. If the permits granted in just the Clarion Clipperton Zone between Hawaii and Mexico are allowed to proceed to development, it would create the largest contiguous mining zone on the planet. There is a growing global movement to protect the deep seabed, declared by the United Nations as the Common Heritage of Humankind, and people are organizing across borders to seize this historic opportunity to stop this devastation before it begins by issuing an immediate moratorium on



Protest in Panama City against open-pit mining in 2021. A banner reads “Sustainable open-pit mining doesn’t exist.” (CIAM)



Josefina Tunki, the first female president of the Shuar Arutam People (PSHA) stands with other women during a 2021 protest against efforts to expand mining in Shuar territory in Ecuador. (CGPSHA)



Public demonstration in 2019 next to the Saint Mathieu-Berry Esker water source, in front of the Sayona Authier mine site in Québec. The sign states “Millennia to build it, 18 years to destroy it.”

deep sea mining in international waters and, ultimately, achieve a total ban. Communities are also organizing to stop deep seabed mining in their national waters. Stopping deep sea mining is one of the most salient examples of prevention. Leadership and the strongest opposition is coming from Indigenous voices in the Pacific, who urge, “as our common heritage, the ocean demands our common responsibility for its protection.”<sup>45</sup>

The threat posed by deep sea mining is a clear example of how mining is expanding globally and pushing into new and extremely ecologically sensitive systems. The global coordinated effort to protect the deep seabed will be a catalyst for international organizing to protect the ocean commons in the years to come.

Similarly, women Indigenous and environmental defenders are joining together across the Amazon, mapping how Canadian mining companies are pushing to mine for gold and copper in the ecologically sensitive *páramos* – unique high-altitude wetlands – which provide freshwater for millions of people. Over the last several years, new collaborations have formed between women’s agroecology collectives in Colombia and

Ecuador, to better understand the technical impacts of mining in *páramos*, including risks posed by potential arsenic contamination, and to co-develop strategies and a regional front to prevent mining across parts of the Amazon.

Meanwhile, Québec residents are undertaking their own water sampling near mine sites, trying to show how exploration activities can have an impact on the water quality. A Québec Superior Court has just ruled in favour of the Mitchikanibikok Inik First Nation, who took the province to court for failing in its constitutional duty to consult the nation before granting mining claims on their territory. The province must now consult and, as appropriate, accommodate Mitchikanibikok Inik on existing and new claims – a major challenge to free entry.

While the odds sometimes seem insurmountable, we have been surprised time and time again that projects can be stopped, better outcomes secured, people can join together and form strong movements. That’s the only way there will be change: preventing harm before it starts. As we look to the next many years of work, this is our focus.

45 Pacific Blue Line. *Deep Sea Mining is Not Needed, Not Wanted, Not Consented!* <https://www.pacificblue.org/pacific-blue-line-statement>



Top left: Alliance of Solwara Warriors in Papua New Guinea call for a ban on deep sea mining (ASW); Bottom left: Members of the Mitchikanibikok Inik First Nation denounce mining claims granted in their territory without their consent. (QMM); Right: Women defenders from Ecuador and Colombia exchange methods for sustainable harvesting and for protecting the páramos from Canadian mining. (V. Herrera, MiningWatch)



Teztan Biny (Fish Lake) in Xení Gwet'in territory, British Columbia, where Taseko Mines planned to dump tailings from its proposed prosperity mine – over the objections of the T̓silhqot'in people.  
(T̓silhqot'in National Government)

## Conclusion

The structural issues that led to the creation of MiningWatch 25 years ago – conflict over access to land, Indigenous consent, mine waste management, finances and taxation, and, at its core, the untrammelled power of a mining industry that is supported by the Canadian government – are issues that we continue to address today.

MiningWatch was created as a national organization because we saw that despite the jurisdictional particularities across Canada and the world, with laws, regulations, and standards differing greatly from one province or country to the next, there are established patterns to how mining happens and how it harms people and ecosystems. Whether communities are dealing with the legacy of decades of industrial mining or facing mining for the first time, this understanding can be put to good use as they seek to improve their circumstances and either negotiate for a better outcome or stop a project altogether.

Our first two conferences in 1999 and 2000 defined MiningWatch's trajectory. The strategy of connecting mining-affected communities globally with each other and with those here in Canada really brought home the fact that the abuse is systemic. It made clear the links between Canadian corporations' predatory practices abroad and relentless pressure for lower environmental and labour standards at home.

Celebrating our 25th anniversary, we recognize that the reasons MiningWatch was created and the foundational values we established in our early years are as relevant today as they were in 1999. In the years to come, we will continue to develop tools and resources to support communities facing mining, bring people together to strengthen relationships, develop strategies to prevent harmful mining practices in the first place, and advocate with others for stronger regulations to curb industry abuses and provide access to remedy.

And as the world comes to terms with the material realities of the energy transition and the economic and social use of resources, we will be there with the support, perspectives, and research that will be critical to a genuine transformation to a sustainable and just future.

Over 25 years, we have been invited into community organizing spaces to strategize on ways to confront mining injustice. There, we have borne witness to and played a role in supporting broader struggles for change. These struggles are generational. The need is great, the industry is powerful, and we remain a small organization, even if we cast a long shadow. While strategies to achieve mining justice may shift in the coming years, we remain as certain today as when we started that this work needs to be done collectively.