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## Canada's Mining Dominance and Failure to Protect Human Rights

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### Canada's role in global mining:

- 47% of the world's public mining companies are listed on Canadian stock exchanges
- The Toronto exchanges (TSX and TSX Venture Exchange) are home to more mining companies than any other markets in the world
- There are a total of 1,348 Canadian mining and exploration companies<sup>1</sup>
- More than half of Canadian mining and exploration companies operate overseas (730)
- Canadian companies were present in 97 foreign countries in 2020
- In 2022, the value of Canadian mining assets<sup>2</sup> abroad totalled \$188 billion, and accounted for about two thirds of the total value of Canadian mining assets
- Canada's mining companies are operating in countries in Latin America, Africa and Asia-Pacific. The largest portion of the overseas value is situated in the regions of Latin America and the Caribbean which hold 45.4% of Canadian mining assets abroad with a value of \$85.4 billion in 2020.<sup>3</sup>

### Harm linked to Canadian mining overseas:

Harm caused or contributed to by Canadian mining companies and their subsidiaries and contractors overseas is globally extensive and persistent. It includes long-term environmental degradation, a wide range of human rights harms, abuses of Indigenous rights, as well as negative economic and financial impacts at local and national levels. Together, these impacts have serious and long-term repercussions on local and national development.

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<sup>1</sup> Exploration companies account for 88% of the total number of companies (but only 5.4% of the value).

<sup>2</sup> Mining assets is mineral properties, but also deferred exploration expenses and royalties.

<sup>3</sup> <https://www.nrcan.gc.ca/maps-tools-and-publications/publications/minerals-mining-publications/canadian-mining-assets/19323>

A consortium of organizations documented a range of human rights and environmental impacts of Canadian mining companies in Latin America in a report to the Inter-American Commission on Human Rights.<sup>4</sup> The report focusses on 22 projects involving 20 multinational Canadian mining companies operating in nine countries: Argentina, Chile, Colombia, El Salvador, Guatemala, Honduras, Mexico, Panama, and Peru. It documents 27 cases of violations of human rights and environmental impacts.

Another report documenting the widespread violence associated with the operations of Canadian mining companies in Latin America, academic researchers found the following incidents associated with 28 Canadian mining companies:<sup>5</sup>

- 44 deaths, 30 of which were “targeted” occurred in 11 countries
- 403 injuries, 363 of which occurred during protests and confrontations occurred in 13 countries
- 709 cases of “criminalization”, including legal complaints, arrests, detentions and charges occurred in 12 countries.<sup>6</sup>

#### **Examples of human rights and environmental abuses:**

- **Violent deaths and serious injuries to opponents of projects**
  - Mariano Abarca was a community leader in Chiapas, Mexico, who spoke out against Blackfire Exploration’s mine in his town of Chicomuselo. Mariano received threats and was arrested after participating in a peaceful protest against the project in August 2009. In November 2009, he was murdered. Eyewitnesses allege that several employees and contractors of Blackfire were involved.<sup>7</sup>
  - Adolfo Ich, a respected community leader and schoolteacher was attacked with machetes and shot in the head by mine company security personnel of Skye Resources Inc. (later acquired by Hudbay Minerals) in Guatemala on September 27, 2009.<sup>8</sup>
  - German Chub was shot and paralyzed by mine company security personnel of Skye Resources Inc. (later acquired by Hudbay Minerals) on September 27, 2009 in Guatemala.<sup>9</sup>

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<sup>4</sup> The impact of Canadian Mining in Latin America and Canada’s Responsibility: Executive Summary of the Report submitted to the Inter-American Commission on Human Rights. 2014. Working Group on Mining and Human Rights in Latin America: Observatorio Latinoamericano de Conflictos Ambientales, Colectivo de Abogados José Alvear Restrepo, Due Process of Law Foundation, Centro Hondureño de Promoción para el Desarrollo Comunitario, Asamblea Nacional de Afectados Ambientales, Asociación Marianista de Acción Social y Red Muqui. [https://www.dplf.org/sites/default/files/report\\_canadian\\_mining\\_executive\\_summary.pdf](https://www.dplf.org/sites/default/files/report_canadian_mining_executive_summary.pdf)

<sup>5</sup> Imai, Shin and Gardner, Leah and Weinberger, Sarah, The ‘Canada Brand’: Violence and Canadian Mining Companies in Latin America (December 1, 2017). Osgoode Legal Studies Research Paper No. 17/2017, Available at SSRN: <https://ssrn.com/abstract=2886584> or <http://dx.doi.org/10.2139/ssrn.2886584>

<sup>6</sup> In addition, the researchers found that Canadian companies listed on the Toronto Stock Exchange did not report the majority of these impacts in their mandatory reporting.

<sup>7</sup> The impact of Canadian Mining in Latin America and Canada’s Responsibility: Executive Summary of the Report submitted to the Inter-American Commission on Human Rights. 2014. [https://www.dplf.org/sites/default/files/report\\_canadian\\_mining\\_executive\\_summary.pdf](https://www.dplf.org/sites/default/files/report_canadian_mining_executive_summary.pdf)

<sup>8</sup> <http://www.chocversushudbay.com/>

<sup>9</sup> *Ibid.*

- **Sexual assaults of Indigenous community members**
  - Community women have been raped and gang-raped by mine security at Barrick Gold's Porgera Joint Venture mine in Papua New Guinea and North Mara mine in Tanzania over many years.<sup>10</sup>
  - Eleven women from Lote Ocho in Guatemala were gang-raped by mining company security personnel, police and military during the forced eviction of their village and families from their ancestral lands on January 17, 2007.<sup>11</sup>
  
- **Threats to human and environmental rights defenders**
  - In Ecuador, Josefina Tunki (President of the Shuar Arutam People) faces repeated threats for speaking out against Solaris Resources' Warintza project and other mining concessions that were granted in Shuar Arutam territory without their Indigenous consent.<sup>12</sup>
  
- **Forced labour**
  - In Eritrea, Nevsun, through its Eritrean subsidiary the Bisha Mine Share Company, and in complicity with the government and military of the State of Eritrea, allegedly committed gross human rights violations such as slavery, forced labour, torture and crimes against humanity during the construction of its copper and gold mine in Eritrea.<sup>13</sup>
  
- **Environmental harm**
  - A tailings dam overflowed at Equinox Gold's Aurizona mine in Brazil on March 25, 2021, leaving communities without reliable access to drinking water. One year later, the company has done little.<sup>14</sup>

## **Canada Promotes and Protects - Does Not Hold Canadian Mining Companies to Account – UN tells Canada to Protect Human Rights**

Under Canada's Global Markets Action Plan of 2013,<sup>15</sup> which makes "economic diplomacy" the "driving force behind the Government of Canada's trade promotion activities," Canadian civil servants and embassy staff are mandated to promote and protect the interests of Canadian corporations operating overseas. There are numerous examples that illustrate that Canadian consular staff prioritize this mandate over the state duty to protect human rights in the case of Canadian mining companies operating overseas.<sup>16</sup>

<sup>10</sup> [https://miningwatch.ca/sites/default/files/privatized\\_remedy\\_and\\_human\\_rights-un\\_forum-2014-12-01.pdf](https://miningwatch.ca/sites/default/files/privatized_remedy_and_human_rights-un_forum-2014-12-01.pdf)

<sup>11</sup> <http://www.chocversushudbay.com/>

<sup>12</sup> <https://miningwatch.ca/blog/2021/8/31/international-organizations-join-shuar-arutam-people-press-canadian-embassy-ecuador>

<sup>13</sup> <https://www.canadianlawyermag.com/practice-areas/litigation/nevsun-settles-with-eritrean-plaintiffs-in-relation-to-landmark-supreme-court-of-canada-case/334916>

<sup>14</sup> <https://miningwatch.ca/news/2021/9/27/brazilians-still-without-water-six-months-after-mine-dam-breach>

<sup>15</sup> Foreign Affairs, Trade and Development Canada, Global Markets Action Plan: The Blueprint for Creating Jobs and Opportunities for Canadians Through Trade, <https://www.international.gc.ca/global-markets-marches-mondiaux/assets/pdfs/plan-eng.pdf>

<sup>16</sup> See for example -Backgrounder: MiningWatch Canada. A Dozen Examples of Canadian Mining Diplomacy (2013)

<https://miningwatch.ca/blog/2013/10/8/backgrounder-dozen-examples-canadian-mining-diplomacy>; MiningWatch Canada. State Duty to Protect Human Rights: How Canada's Embassy Staff and Trade Commissioners Are Not Fulfilling Their Duty (2019).

Numerous UN officials and treaty bodies have focussed specifically on harms caused by Canadian mining companies and have reminded Canada of its duty to protect human rights – including when these are harmed by Canadian mining companies operating overseas.

- In **November 2016, the International Committee on the Elimination of Discrimination Against Women** at paragraphs 18 and 19, expressed concern about violations of the rights of women and girls by **Canadian mining companies** operating abroad and recommended that Canada introduce “effective mechanisms to investigate complaints filed against those corporations, including by establishing an Extractive Sector Ombudsperson, with the mandate to, inter alia, receive complaints and conduct independent investigations.” [CEDAW concluding observations](#)
- In **March 2016, the International Committee on Economic, Social and Cultural Rights**, at paragraphs 15 and 16, highlighted the need for Canada to introduce an independent mechanism for complaints, to facilitate access to Canadian courts, and to ensure trade and investment agreements recognize the primacy of human rights: “...the Committee is concerned about allegations of human rights abuses by Canadian companies operating abroad, in **particular mining corporations**, and about the inaccessibility to remedies by victims of such violations. The Committee regrets the absence of an effective independent mechanism with powers to investigate complaints alleging abuses by such corporations that adversely affect the enjoyment of the human rights of victims, and of a legal framework that would facilitate such complaints (art. 2). The State party should (a) enhance the effectiveness of existing mechanisms to ensure that all Canadian corporations under its jurisdiction, **in particular mining corporations**, respect human rights standards when operating abroad; (b) consider establishing an independent mechanism with powers to investigate human rights abuses by such corporations abroad; and (c) develop a legal framework that affords legal remedies to people who have been victims of activities of such corporations operating abroad” [emphasis added]. [ICESC concluding observations](#).
- **July 2015, the United Nations Human Rights Committee Report**, at paragraph 6, expresses concern about allegations of human rights abuses by Canadian companies operating abroad. The report goes on to state that “the Committee is concerned that the State has not yet adopted measures with regard to transnational corporations registered in Canada whose activities negatively impact the rights of indigenous peoples outside Canada, **in particular in mining activities** (art. 5). The Committee recommends that the State party take appropriate legislative measures to prevent transnational corporations registered in Canada from carrying out activities that negatively impact on the enjoyment of rights of indigenous peoples in territories outside Canada, and hold them accountable” [emphasis added]. [UNHRC report](#)

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[https://miningwatch.ca/sites/default/files/presentation\\_cnca\\_symposium\\_april\\_2019\\_final.pdf](https://miningwatch.ca/sites/default/files/presentation_cnca_symposium_april_2019_final.pdf); Kamphuis, Charis and Connolly, Charlotte, The Two Faces of Canadian Diplomacy: Undermining International Institutions to Support Canadian Mining (February 4, 2022). Justice & Corporate Accountability Project, Available at SSRN: <https://ssrn.com/abstract=4025474>

- In **2007** and **2012** the **United Nations Committee on the Elimination of All Forms of Racial Discrimination** highlight concerns about the role of **Canadian mining activities** abroad and recommended that Canada “take appropriate legislative measures to prevent transnational corporations registered in Canada from carrying out activities that negatively impact on the enjoyment of rights of indigenous peoples outside Canada, and hold them accountable.” In 2012, the Committee expressly stated that Canada’s CSR Strategy did not fulfill this recommendation: [CERD concluding observations](#).
- Hearings and reports of the **Inter-American Commission on Human Rights** over the last 3 years have focussed exclusively or heavily on Canadian mining in Latin America
  - The Inter-American Commission on Human Rights [2016 Report](#) on Extractive Industries
  - November 1, 2013, 149th session “The impact of Canadian Mining in Latin America and Canada’s Responsibility” – [submission in English](#)
  - [Thematic Hearing](#) on Human Rights and Extractive Industries in Latin America (scroll down to March 19, 2015). Note the [entire section on Canada](#) in the submission.<sup>17</sup>

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<sup>17</sup> Adapted from text at <https://cnca-rcrce.ca/2017/01/31/international-human-rights-authorities-call-for-extractive-sector-ombudsperson/>