

PUTTING VOICES AT RISK

Government of Canada prioritizes economic interests of Canadian mining companies over the safety of human rights and environmental defenders



Brief to support meeting with Mary Lawlor, UN Special Rapporteur on the Situation of Human Rights Defenders

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COVER PHOTO

A vigil for Mexican environmental defender Mariano Abarca, killed in November 2009 in Chiapas, Mexico. Mariano was a leader in the movement to protect his community from harm caused by the Canadian mining company Blackfire Exploration. Despite knowing about increased threats to Mariano's life, Canadian embassy officials did nothing to protect him and may have further endangered his life by lobbying to advance Blackfire's interests. This photo represents one of six case studies referenced in this report, in which Canadian officials failed to take action to protect human rights and environmental defenders in the face of allegations of significant harm by Canadian mining companies. (Jen Moore, MiningWatch Canada)

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Introduction

Almost half of the world's publicly listed mining and mineral exploration companies are Canadian. Seven hundred and seventy (770) Canadian mining and exploration companies have mining assets overseas in 98 countries with a combined value of some \$214.7 billion.¹ MiningWatch Canada works globally in solidarity with communities and Indigenous peoples to support their efforts to prevent harm from the operations of Canadian mining companies, or to seek remedy for the long-lasting environmental and human rights impacts they have endured. Over 25 years, we have seen the proliferation of voluntary guidelines and standards for the industry – many supported by the Government of Canada – without a reduction in the harm caused by mining globally. Rather, industrial mining continues to expand into ever more remote parts of the world, while the egregious impacts of mining projects have not diminished. These impacts are increasingly borne by Indigenous peoples. The combination of relentless global expansion of mining, a dismal failure to improve mining practices, and a growing global inventory of dangerous abandoned sites with massive toxic waste dumps, mean that the actual harm done by industrial mining has steadily increased over the past 25 years.

Successive Canadian governments have continued to promote and protect the economic interests of Canadian mining multinationals over the rights of those harmed by our companies and over the rights of defenders who speak out about these rights violations.²

In this brief, we provide six case studies that span 17 years. The first two case studies precede Canada's adoption in 2016 of *Voices at Risk: Canada's Guidelines on Supporting Human Rights Defenders (Voices at Risk)*. Events outlined in the four subsequent case studies take place after the adoption of *Voices at Risk*. This brief makes clear that Canada's primary orientation towards protecting the interests of Canadian mining companies – even in the face of credible claims of human rights violations and often with particular vigour when such claims are made – has not changed over these 17 years. The *Voices at Risk* guidelines have served more as a fig leaf than as a credible source of protection for human rights defenders calling out the harm done by Canadian mining companies globally.

1. Canadian government prioritizes economic interests of Canadian mining companies over human rights of defenders

For 25 years, MiningWatch Canada has noted with dismay that successive Canadian governments have prioritized the economic interests of Canadian mining companies operating overseas over the rights of environmental and human rights defenders, communities, and Indigenous peoples affected by these same Canadian mining companies. In raising environmental and human rights concerns with Ambassadors and High Commissioners, they have repeatedly told us they are *mandated* to promote and protect the interests of Canadian companies operating overseas.

1 Natural Resources Canada. *Canadian Mining Assets*. 2024. <https://natural-resources.canada.ca/maps-tools-and-publications/publications/minerals-mining-publications/canadian-mining-assets/19323>.

2 Justice and Corporate Accountability Project, submitted on behalf of MiningWatch Canada. 2023. *Canada's Systematic Failure to Fulfill its International Obligations to Human and Environmental Rights Defenders Abroad*. Submission to the UPR Working Group of the United Nations Human Rights Council in anticipation of the 2023 Universal Periodic Review (UPR) of Canada April 4, 2023. <https://justice-project.org/wp-content/uploads/2023/04/JCAP-Submission-to-UNPR-2023-final.pdf>

Several UN agencies have pointed out that Canada has a *duty to protect* the human rights of overseas individuals and Indigenous peoples when their rights are infringed upon by the operations of Canadian companies.³ For example, in 2015, the International Covenant on Civil and Political Rights noted that:

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.⁴

Since 2013, federal foreign affairs officials have had a clear policy mandate enshrined in then-Prime Minister Stephen Harper's *Global Markets Action Plan: The Blueprint for Creating Jobs and Opportunities for Canadians Through Trade*⁵ with its goal to:

entrench the concept of "economic diplomacy" as the driving force behind the Government of Canada's activities through its international diplomatic network (...) all diplomatic assets of the Government of Canada will be marshalled on behalf of the private sector.⁶

The *Global Markets Action Plan* (GMAP) builds on the previous 2007 *Global Commerce Strategy* and the 2012 *Economic Action Plan*. As noted at the launch of the GMAP, it came about through the Government of Canada:

consulting extensively with Canada's business community to identify new markets, strengths and opportunities. ... An advisory panel of leading business and industry leaders provided guidance. The result was the Global Markets Action Plan (GMAP).⁷

3 U.N. CERD Com., Consideration of Reports Submitted by States Parties under Article 9 of the Convention, Concluding Observations of the CERD Committee: Canada, 17, CERD/C/CAN/CO/18, (May 25, 2007), http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCAN%2fCO%2f18&Lang=en; U.N. CERD Com., Consideration of Reports Submitted by States Parties under Article 9 of the Convention, Concluding Observations of the CERD Committee: Canada, 14 CERD/C/CAN/CO/19-20, (Apr. 4, 2012), http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCAN%2fCO%2f19-20&Lang=en; U.N. CRC Com., Concluding observations on the combined third and fourth periodic report of Canada, adopted by the Committee at its sixty-first session, (17 September – 5 October 2012), 29 CRC/C/CAN/CO/3-4, (Dec. 6, 2012), http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fCAN%2fCO%2f3-4&Lang=en; Hum. Rts. Com., CCPR, Concluding observations on the sixth periodic report of Canada, 6, CCPR/C/CAN/CO/6, (Aug. 13 2015), http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fCAN%2fCO%2f6&Lang=en; U.N. Econ. & Soc. Council. Com. on Economic, Cultural and Social Rights, Concluding observations on the sixth periodic report of Canada, 15-16, E/C.12/CAN/CO/6, (Mar. 23, 2016), http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fCAN%2fCO%2f6&Lang=en

4 Hum. Rts. Com., CCPR, Concluding observations on the sixth periodic report of Canada, 6, CCPR/C/CAN/CO/6, (Aug. 13, 2015), p. 2. http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fCAN%2fCO%2f6&Lang=en

5 Foreign Affairs, Trade and Development Canada. 2013. *Global Markets Action Plan: The Blueprint for Creating Jobs and Opportunities for Canadians Through Trade*. 2013. <https://s3.amazonaws.com/s3.documentcloud.org/documents/842777/dfatd-global-plan-for-markets-and-jobs.pdf>

6 *Ibid.* p. 11

7 *Global Markets Action Plan and Market Access Plans: Background*, <https://www.canada.ca/en/news/archive/2015/06/global-markets-action-plan-market-access-plans.html>

This policy has remained in place under the Trudeau government.⁸

The following examples highlight the harmful outcomes that can be attributed to the pre-eminence of the economically-driven directives of foreign affairs officials to promote and protect the interests of Canadian mining companies operating overseas over their duty to protect the human rights of those who have been negatively impacted by those corporations. The two cases summarized below pre-date the 2016 adoption by the Government of Canada of *Voices at Risk: Canada's Guidelines on Supporting Human Rights Defenders (Voices at Risk)*. Four further cases are provided in Section 2 that illustrate the utter lack of effectiveness of the *Voices at Risk* guidelines in improving outcomes for rights defenders, primarily because mission staff and foreign affairs officials have continued to prioritize their mandate to promote and protect the economic interest of Canadian corporations.

A. GUATEMALA

Between 2008 and 2011, Canadian company Hudbay Minerals was the parent company of Compañía Guatemalteca de Níquel (CGN), which owned the Fenix ferro-nickel project in El Estor, Guatemala. Hudbay acquired the mine from Skye Resources in 2008. In 2010 and 2011, Guatemalan plaintiffs brought three civil lawsuits in Ontario, Canada against Hudbay. These cases are ongoing. The plaintiffs allege physical assault leading to permanent paralysis, sexual assault, rape, and death at the hands of mine security and police at the Fenix mine in 2007 and 2009.

The violent events at the Hudbay mine that are now being litigated in Canada started in 2007 with forced evictions of Mayan Q'eqchi' farmers to accommodate Skye Resources' mining project in El Estor. During the forced evictions on behalf of Skye Resources in 2007, 11 women were allegedly gang-raped by armed mine security personnel, police, and military. The 11 rape victims are now represented in one of the three cases filed against Hudbay Minerals.⁹

Canadian documentary filmmaker Steven Schnoor filmed the forced evictions and house burnings in 2007. After the short film was released on YouTube,¹⁰ then-Canadian Ambassador to Guatemala Kenneth Cook attempted to undermine the harsh realities exposed in the film and protect the interests of Sky Resources by stating that the film was not credible, that the Mayan Q'eqchi' woman depicted protesting the evictions in the film was a paid actress, and that the photos of houses being burnt to the ground were in fact taken years before in the context of the Guatemalan civil war.¹¹

Schnoor brought a defamation lawsuit against Ambassador Cook in small claims court. On June 16, 2010, Justice Pamela Thomson ruled that the former Canadian Ambassador to Guatemala had slandered Schnoor and that the Ambassador's statements were defamatory and untrue.¹² She further

8 For critical reviews see: Misha Boutilier. December 10, 2013. *The Global Markets Action Plan: A Narrow Vision*. <https://natoassociation.ca/the-global-markets-action-plan-a-narrow-vision/>; Stuart Trew, November 27, 2013, The Council of Canadians, *Harper's New Global Markets Action Plan: Corporate Cronyism on an International Scale*. <https://canadians.org/analysis/harpers-new-global-markets-action-plan-corporate-cronyism-international-scale/>

9 Klippensteins, Barristers & Solicitors. (2024). *Summary of Caal v. Hudbay*. <https://chocversushudbay.com/about/#Summary%20of%20Caal>

10 Schnoor, 2007, *Violent Evictions at El Estor, Guatemala*. <https://www.youtube.com/watch?v=Q20YxkM-CGI>

11 Schnoor v. Canada, website, no date, <https://schnoorversuscanada.ca/#::~:~:text=Toronto%3A%20On%20June%2016%2C%202010,of%20a%20Canadian%20mining%20company>

12 Klippensteins, Barristers & Solicitors. (2010). *Judge Rules that Canadian Ambassador Slandered Documentary*

held that “the Ambassador was reckless,” and that “he should have known better.”¹³ Justice Thomson also noted the lack of response to these issues from the Canadian government: “[s]he held that the ‘dead silence’ that Schnoor received in response to his request for an explanation, retraction and apology, was ‘spiteful and oppressive.’”¹⁴

B. MEXICO

Mariano Abarca was a leader and land and rights defender in Chiapas, Mexico.¹⁵ He was a member of the Mexican Network of People Affected by Mining (REMA) and led peaceful protests against the Canadian mining company Blackfire Exploration’s Payback barite mine. The communities involved in the local struggle in Chiapas faced harassment and threats due to their opposition to the Canadian company. In July 2009, Mariano Abarca went to the Canadian Embassy to report that community members “have been beaten and threatened by thugs for the company.”¹⁶ In August 2009, Mariano was detained off the street by plain-clothes police and imprisoned, based on accusations filed by Blackfire.¹⁷ During his detention over 1400 emails were sent to the Canadian Embassy expressing concern for his wellbeing.¹⁸

Mariano’s murder outside his restaurant home on November 27, 2009 came seven weeks after senior Canadian diplomats met with Chiapas State officials to advocate on behalf of Blackfire in light of community protests that were hindering the operation of the mine.¹⁹ Access to information disclosures show that:

there were over 30 contacts between Blackfire and the Embassy between 2007 and 2010. The only time the Canadian Embassy met with Mr. Abarca and members of the community was in July 2009, at a protest outside of the Embassy. An Embassy official did not speak with the Abarca family and supporting organizations until two months after his murder, despite attempts to get Canadian officials’ attention immediately after this crime occurred.²⁰

Video Maker – Both Ambassador and Canadian Government ordered to pay almost \$10,000 in damages and costs. June 17, 2010. <https://www.miningwatch.ca/news/2010/6/17/judge-rules-canadian-ambassador-slandered-documentary-video-maker-both-ambassador-and>

13 *Ibid*

14 *Ibid*

15 See <http://justice4mariano.net/>

16 Justice and Corporate Accountability Project. *Blackfire Exploration, Mariano Abarca and the Canadian Embassy in Mexico: An Update (April 2021)*. <https://justice-project.org/wp-content/uploads/2021/04/Blackfire-case-update-April-2021.docx>

17 *Applicants Memorandum of Fact and Law*. October 12, 2018. https://miningwatch.ca/sites/default/files/memorandum_of_fact_and_law_re_abarca_october_12_2018_final.pdf

18 A detailed account of the events leading to the murder of Mariano Abarca is contained in: MiningWatch Canada, Common Frontiers and the United Steelworkers of Canada. May 2013. *Corruption, Murder and Canadian Mining in Mexico: The Case of Blackfire Exploration and the Canadian Embassy*. https://miningwatch.ca/sites/default/files/blackfire_embassy_report-web.pdf

19 *Ibid*

20 Justice and Corporate Accountability Project. 2021. *Blackfire Exploration, Mariano Abarca and the Canadian Embassy in Mexico: An Update (April 2021)*. <https://justice-project.org/wp-content/uploads/2021/04/Blackfire-case-update-April-2021.docx>

On February 5, 2018, Mariano's family²¹ filed a complaint with the Office of the Public Sector Integrity Commissioner in Canada.²² They requested that the Commissioner investigate the acts and omissions of the Canadian Embassy in Mexico as these may have contributed to putting Mariano Abarca's life in danger. This request was denied.

Lawyers for the Abarca family sought a judicial review of the decision by the Public Sector Integrity Commissioner (PSIC) through the Federal Court of Canada.²³ The Federal Court did not find fault with the PSIC's decision. In his decision, published on July 18, 2019, Federal Justice Keith Boswell noted that the plaintiffs "have not identified anything which created a legal obligation upon the Embassy to act or not to act in a certain manner. Undoubtedly, the Applicants would have liked the Embassy to have acted in a certain way, and perhaps Mr. Abarca would not have been murdered."²⁴

Although *Voices at Risk* had not yet been adopted when Mariano Abarca and his family sought protection from the Canadian Embassy, Canada's duty to protect those harmed by its companies operating overseas had already been raised by the Committee on the Elimination of Racial Discrimination in 2007:

the Committee encourages the State party to take appropriate legislative or administrative measures to prevent acts of transnational corporations registered in Canada which negatively impact on the enjoyment of rights of indigenous peoples in territories outside Canada. In particular, the Committee recommends that the State party explore ways to hold transnational corporations registered in Canada accountable. The Committee requests the State party to include in its next periodic report information on the effects of activities of transnational corporations registered in Canada on indigenous peoples abroad and on any measures taken in this regard.

Additionally, in December 2009, shortly after Mariano's murder, a senior government official told a Canadian Parliamentary Committee that Canadian embassies have certain procedures to follow when there is a conflict between Canadian mining companies and local communities – in particular to "facilitate dialogue."²⁵ The Embassy in Mexico did not follow those procedures. In refusing to

21 Shin Imai of the Justice and Corporate Accountability Project (JCAP) filed the complaint on behalf of the Abarca family and supporters, including Otros Mundos and the Mexican Network of Mining Affected People (REMA), and MiningWatch Canada.

22 Shin Imai, *Submission to the Public Sector Integrity Commissioner in Relation to the Embassy of Canada in Mexico Public Release: February 5, 2018 (revised on February 7, 2018)*. <https://miningwatch.ca/sites/default/files/2psicpublicfinal.pdf>

23 The plaintiffs in the case, in addition to family members of Mariano Abarca, included five non-governmental organizations from Canada and Mexico, including MiningWatch Canada. See *Applicants Memorandum of Fact and Law*, October 12, 2018, https://miningwatch.ca/sites/default/files/memorandum_of_fact_and_law_re_abarca_october_12_2018_final.pdf

24 For Justice Boswell's decision see: <https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/418622/index.do>. The Abarca family continued to pursue legal avenues in Canada culminating in dismissal by the Supreme Court on January 12, 2023 of the family's application for leave to appeal. With accountability mechanisms in Canada having been exhausted, Mariano Abarca's family have now turned for justice to the Inter-American Commission on Human Rights. <https://miningwatch.ca/news/2023/1/23/end-road-justice-canada-supreme-court-refuses-hear-appeal-family-murdered-mexican-0>

25 *Applicants Memorandum of Fact and Law*. 2018. https://miningwatch.ca/sites/default/files/memorandum_of_fact_and_law_re_abarca_october_12_2018_final.pdf

investigate the case, the Public Sector Integrity Commissioner argued that procedures outlined before a Parliamentary Committee, or posted on a government website, were not compelling on civil servants.²⁶

2. Voices at Risk: An ineffective guideline to protect human rights defenders

Canada's guidelines for government officials – in particular foreign affairs officials and mission staff – in regard to human rights defenders was initiated in 2016 and updated in 2019 as *Voices at Risk: Canada's Guidelines on Supporting Human Rights Defenders (Voices at Risk)*.²⁷ Among others, this guidance maintains that “[h]eads of Mission are responsible for the promotion of human rights, (...) including efforts to support HRDs [human rights defenders].”²⁸ However, these guidelines are considered as just that – guidance. They are not considered by foreign affairs officials to be a mandate, a directive, as compelling on their priorities as is the mandate to promote and protect the interests of Canadian companies operating overseas.

It appears that the *Voices at Risk* guidelines are also not widely promoted in the civil service. In a meeting earlier this year with Canadian civil society organizations, explicitly on human rights and Human Rights Defenders, an otherwise very well-informed senior government official admitted to being unaware of the existence of the *Voices at Risk* guidelines. This raises questions about the seriousness with which the Government of Canada treats the guidelines and indicates a lack of effort and resources devoted to ensuring that public servants are familiar with, and employ, these guidelines.

The following case studies show instances in which human rights defenders were put at risk for raising concern about the activities of Canadian mining companies operating overseas. These case studies illustrate that the *Voices at Risk* guidelines are not considered by mission staff and foreign affairs officials at Global Affairs Canada as stemming from an imperative to protect the rights of human rights defenders who expose wrongdoing by Canadian mining companies.

C. PERU

At Hudbay's Constancia Mine in Peru, the company contracted the services of the Peruvian National Police (PNP) to provide security. In April 2017, while meeting with community members who oppose the harmful impacts²⁹ of the Constancia mine, Canadian human rights defender Jennifer Moore,

26 Justice and Corporate Accountability Project. 2021. *Blackfire Exploration, Mariano Abarca and the Canadian Embassy in Mexico: An Update (April 2021)*. <https://justice-project.org/wp-content/uploads/2021/04/Blackfire-case-update-April-2021.docx>

27 Global Affairs Canada. 2019. *Voices at Risk: Canada's Guidelines on Supporting Human Rights Defenders*. https://www.international.gc.ca/world-monde/assets/pdfs/issues_development-enjeux_developpement/human_rights-droits_homme/rights_defenders-guide-defenseurs_droits_en.pdf

28 *Ibid.* p. 11

29 Kamphuis, C., Connolly, C., Pereira, I., Gutiérrez, M., Ewart, S. & Blanchard, D. 2022. *The Two Faces of Canadian Diplomacy: Undermining Human Rights and Environment Defenders to Support Canadian Mining*.

then-staff with MiningWatch Canada, was apprehended. Among those detaining Moore were police believed to be working for the mine.³⁰

Peruvian authorities detained Moore, banned her from re-entering the country, and labelled her a threat to national security. Moore was narrowly able to flee the country. In 2019, 2020, 2021, and 2022, the Peruvian courts found that Peru's actions violated Moore's human rights. The courts also made findings that Peruvian police were biased against Moore in part because of their services contract with Hudbay, and that the officers involved should be investigated.³¹

After arriving in Peru, Moore had contacted the Canadian Embassy in Lima to express concern for her safety due to negative press about her visit. Embassy staff were also alerted once Moore was in custody, and again after she was released, after about four hours of detention on Saturday April 22. Moore sought accompaniment from Global Affairs Canada to the airport. This was refused. She also sought accompaniment to the airport from the Embassy, a request which was also refused. On Sunday, April 23, Moore was able to leave Peru. By then, Peruvian authorities had criminalized Moore and prohibited her re-entry to Peru.³²

Government records reveal that within five days of Moore's detention, "at least 23 Canadian Embassy and GAC officials were aware that Moore had been detained" and "at least 19 officials were also aware that Peruvian authorities had criminalized her by prohibiting her re-entry and by publishing a statement calling her a threat to public order."³³ Numerous subsequent appeals by Moore, and others on her behalf, for assistance in having her prohibition on re-entry revoked have fallen on deaf ears.

On December 14, 2017, Moore sent a letter signed by 22 civil society organizations to the attention of then Member of Parliament and Honorable Minister of Foreign Affairs Chrystia Freeland, outlining concerns over the criminalization of freedom of expression in Peru and providing a summary of the surveillance, detention, and prohibition on re-entry that Moore faced. The letter specifically invoked the *Voices at Risk Guidelines* published by Freeland's Ministry with her personal endorsement. No GAC officials, nor the Minister, ever replied [emphasis added].³⁴

The *Voices at Risk* guidelines "required Canadian officials to offer Moore support, regardless of the nationality of the company involved."³⁵ Canadian officials failed to provide Moore with any meaningful support:

they also *actively refused* to provide the requested support, even after multiple (unanswered) communications from Moore, a letter from 90 civil society groups, and a joint letter from UN bodies. Contrary to the requirements of the Guidelines, the documents reveal that Canadian

Justice and Corporate Accountability Project. 10 December. p. 41-58. https://justice-project.org/wp-content/uploads/2022/12/2022-12-09_JCAP_TheTwoFacesofCanadianDiplomacy_Reduced-2.pdf

30 *Ibid.* p. 80, 91

31 *Ibid.* p. 7

32 *Ibid.* p. 63-70

33 *Ibid.* p. 72

34 *Ibid.* p. 74

35 *Ibid.* p. 95

officials demonstrated bias against Moore, referring to her in derogatory terms as “anti-mining” and admitting that they sought to avoid any public association with her. There is no record that a single Canadian official questioned these omissions, attitudes, or the chosen course of inaction.³⁶

D. PHILIPPINES

OceanaGold Corporation (OceanaGold) is an Australian-Canadian company that started open-pit copper-gold production in Didipio, Nueva Vizcaya in 2013. The environmental and human rights abuses associated with its operations, both prior to and after commencing mining, are well-documented.³⁷ These abuses led to an investigation by the Philippine Commission on Human Rights in 2011, resulting in a recommendation that the Philippine government “consider the probable withdrawal of the FTAA [Financial and Technical Assistance Agreement].”³⁸

In October 2018, 27 individuals and several organizations, most from the Province of Nueva Vizcaya, were targeted (red-tagged) in a public pamphlet and on posters displayed along main roads in a way that is a common precursor in the Philippines to extra-judicial killings. The one thing these individuals and organizations had in common was their open criticism of OceanaGold’s operations. Five of the individuals targeted were from Didipio, one was the village’s elected captain.³⁹ On November 15, 2018, MiningWatch accompanied four villagers from Didipio – three of which had been named on the red-tagging pamphlet – as well as representatives of the national support organizations Kalikasan and Alyansa Tigil Mina to the Canadian Embassy in Manila. There, information was shared and a discussion was had about how Canada’s *Voices at Risk* policy could be mobilized by Embassy staff to help protect these rights defenders.⁴⁰ Among other requests, the threatened human rights defenders asked that the Embassy: prepare a public letter asking the Philippine Commission of Human Rights to investigate the red-tagging incident; visit Didipio to meet with village leaders and discuss how the Embassy can take steps to protect their rights in line with the *Voices at Risk* guidelines; and provide transparency on whether OceanaGold has signed an “Integrity Agreement” with the Canadian Embassy.

Despite a follow up meeting on this issue with officials from Global Affairs Canada (GAC) in Ottawa, there is no indication that any actions were taken by Embassy staff or by GAC officials in Ottawa regarding this case. The meeting at the Canadian Embassy in November 2018 felt more like an intelligence gathering exercise by Embassy staff than an attempt by staff to explore with the participants how the Embassy could employ the tools at its disposal through *Voices at Risk* to provide support or protection to these threatened human rights defenders. Among others, the Indigenous

36 *Ibid*

37 Robin Broad, John Cavanagh, Catherine Coumans, and Rico La Vina. 2018. *OceanaGold in the Philippines: Ten Violations that Should Prompt Its Removal*. <https://miningwatch.ca/sites/default/files/oceanagold-report.pdf>

38 Commission on Human Rights, 2011, In *Displacement Complaint of Residents of Didipio, Kasibu, Nueva Vizcaya* (CHR-H-2008-0055) (Resolution CHR (IV) No. A2011-004).

39 MiningWatch Canada. 2018. *Indigenous Rights Defenders Targeted Over Opposition to OceanaGold Mine, Seek Support from Canadian Embassy in Philippines*. <https://miningwatch.ca/news/2018/12/18/indigenous-rights-defenders-targeted-over-opposition-oceanagold-mine-seek-support>

40 Catherine Coumans. 2018. *Background Brief: Information provided to the Canadian Embassy during a visit on November 15, 2018*. https://miningwatch.ca/sites/default/files/background_brief_oceanagold_december_2018.pdf

representatives from Didipio were questioned about their possible affiliations to the outlawed organizations they were accused of supporting in the red-tagging pamphlets.

In testimony before a Canadian Parliamentary Subcommittee on International Human Rights in April 2021, Mr. Clemente Bautista of Kalikasan, noted:

We tried to seek redress or support from the Canadian Embassy because in our experience, particularly in Nueva Vizcaya where OceanaGold is operating, some of our local organizations and members of these organizations are being red-tagged. We know there are policy guidelines called “Voices at Risk”, so the Embassy could at least investigate and give support, but we did not get that. Worse, we were asked for information, right to our faces, about whether we or our local partners are a front for private organizations. We have had other experiences with the international community in the Philippines. When we are threatened, they visit our office to prove our legality and legitimacy. However, sadly, in our experience with the Canadian Embassy here, we didn’t get that.⁴¹

In 2019, the mine’s FTAA (permit to operate) expired. As OceanaGold attempted to continue operating without a permit, the site was blockaded on July 1, 2019 by Indigenous Ifugao of Didipio with support from their elected village head, their mayor, and the Governor of Nueva Vizcaya Province. The blockade was twice violently dispersed by police.⁴² Despite ongoing local opposition and strong support from elected officials for the mine to remain shut – including from Governor Carlos Padilla – President Duterte renewed the mine’s FTAA for another 25 years on June 19, 2021.⁴³ This decision was met with dismay, including by church leaders.⁴⁴ Community members from Didipio continue to express fear about speaking out about the mine’s impacts.⁴⁵

E. ECUADOR

The Shuar Arutam People’s Government Council (PSHA) has been resisting Chinese, Australian, and Canadian mining projects in their territory over the last decade. One of these is Solaris Resources’ Warintza copper project, which has been opposed by the Shuar Arutam People. Since the company arrived in Shuar Arutam territory in 2018, the PSHA has publicly condemned Solaris for violating their rights as Indigenous peoples, sowing community divisions, affecting their livelihoods and future, and polluting their rivers and lands.⁴⁶ Even though the Shuar Arutam People’s Government Council

41 Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development. 2021. Number 016, 2nd Session, 43rd Parliament. <https://www.ourcommons.ca/DocumentViewer/en/43-2/SDIR/meeting-16/evidence>

42 MiningWatch Canada, Alyansa Tigil Mine, Kalikasan. 2020. *Global Civil Society Organizations Condemn Violent Dispersal of Indigenous Peoples’ Mining Barricade in the Philippines*. <https://miningwatch.ca/news/2020/4/29/global-civil-society-organizations-condemn-violent-dispersal-indigenous-peoples>

43 Alyansa Tigil Mina. 2021. *Betrayal of Environment and Human Rights*. <https://www.alyansatigilmina.net/single-post/5ad04e06>

44 CBCP News. 2021. *Bishop decries resumption of OceanaGold mine operations*. <https://cbcpnews.net/cbcpnews/bishop-decries-resumption-of-oceanagold-mine-operations/>

45 Catherine Coumans. 2021. *Brief submitted to the Subcommittee on International Human Rights. Mining and Human Rights in the Philippines – Canada’s Duty to Protect*. <https://www.ourcommons.ca/Content/Committee/432/SDIR/Brief/BR11331162/br-external/MiningWatchCanada-e.pdf>

46 Government Council of the Shuar Arutam Peoples. 2021. *Open Letter to United Nations Global Compact*

represents 47 Indigenous centres in Shuar Arutam territory, Solaris has engaged only two Shuar communities. The PSHA say this selective engagement serves to undermine their organizational structure, promoting division and creating conflict and violence.⁴⁷

In 2020, PSHA strongly affirmed their opposition to large-scale mining and extractive projects in their territories. Since 2021, PSHA has tried repeatedly to engage with the Canadian Embassy, while denouncing violations of PSHA's Indigenous rights, as well as threats and violence associated with Solaris Resources experienced by PSHA environmental defenders. PSHA specifically has urged the Embassy to take action in accordance with the *Voices at Risk* guidelines. The Embassy has been evasive or not responded to PSHA's asks.

For example, in 2020, Solaris Resources' then-Vice President of Operations Federico Velásquez was accused of issuing a death threat against then-PSHA President Josefina Tunki⁴⁸ and other PSHA members. Because of this, Tunki and other PSHA members told us that they live in fear for themselves, their families, and community.

Following this alleged death threat, PSHA wrote to Sylvie Bédard, then-Canadian Ambassador to Ecuador, regarding the threat against Tunki urging Ambassador Bédard to implement the *Voices at Risk* guidelines, including by providing safety measures for President Tunki.⁴⁹ More than three months later, the Ambassador responded in a letter declining to take any action. She wrote that she had "taken note of the facts indicated" in the letter sent by PSHA and would allow for a complaint filed by Tunki with the Criminal Prosecutor Office to play out.⁵⁰

Despite being aware of conflicts and violence related to the Solaris' Warintza project in Shuar territory since 2020, the Canadian Embassy in Ecuador has continued to publicly express its support for Canadian mining companies in Ecuador, including Solaris.⁵¹

According to *Voices at Risk*, Canadian embassies can make use of social media to raise awareness about threats faced by human rights defenders and land defenders in order to show that "the world

Ecuador from the Government Council of the Shuar Arutam Peoples (translated by MiningWatch Canada). <https://miningwatch.ca/news/2021/2/19/open-letter-united-nations-global-compact-ecuador-government-council-shuar-arutam>

47 Pueblo Shuar Arutam. 2020. *Open Letter* (translated by MiningWatch Canada). <https://amazonwatch.org/assets/files/2020-09-23-shuar-letter.pdf>

48 Pueblo Shuar Arutam et al. 2021. *Ecuador: Shuar Representative Denounces Threats from Canadian Mining Company*. <https://miningwatch.ca/news/2021/3/9/ecuador-shuar-representative-denounces-threats-canadian-mining-company>

49 Shuar Arutam People (2021). *Letter to Sylvie Bédard, Ambassador of Canada. Re: Threats and violence against Josefina Tunki, President of the Shuar Arutam People, and human rights and environmental defenders on Canadian mining concessions in Ecuador*. <https://amazonwatch.org/assets/files/2021-08-26-psha-letter-to-canadian-embassy.pdf>

50 Justice and Corporate Accountability Project, submitted on behalf of MiningWatch Canada. 2023. *Canada's Systematic Failure to Fulfill its International Obligations to Human and Environmental Rights Defenders Abroad*. Submission to the UPR Working Group of the United Nations Human Rights Council in anticipation of the 2023 Universal Periodic Review (UPR) of Canada April 4, 2023. p. 28-29. <https://justice-project.org/wp-content/uploads/2023/04/JCAP-Submission-to-UNPR-2023-final.pdf>

51 Solaris Resources Inc @SolarisResource, "Warintza es #mineríaparticipativa. \$SLS.TO agradece a la Embajada @CanadaEcuador por su apertura para conocer más del trabajo y esfuerzo de la Alianza entre las comunidades Shuar de @WarintsyYawi & Solaris." Twitter, November 21, 2021, 11:27 AM. <https://x.com/SolarisResource/status/1462457664638644224>

is watching.” However, the Canadian Embassy in Ecuador has been using social media to promote Canadian mining companies, highlighting the economic benefits of Canadian mining. This is a longstanding practice of the Canadian Embassy in Ecuador. In 2008, the embassy lobbied “tirelessly”⁵² on behalf of Canadian mining companies to ensure a privileged seat for Canadian mining companies at a dialogue table convened to discuss the development of a new mining law.

Currently, Canada is negotiating a Free Trade Agreement (FTA) with Ecuador. Canadian human rights organizations,⁵³ including MiningWatch Canada,⁵⁴ have voiced their concern that this trade deal will exacerbate violence and conflict in the territories and increase threats to environmental and Indigenous rights defenders.⁵⁵ If Canada signs this FTA, the situation for environmental and Indigenous rights defenders will worsen as the Canadian Embassy in Ecuador fails to implement the *Voices at Risk* guidelines and promotes the economic interests of Canadian mining companies operating in the country over the human rights of environmental defenders and Indigenous peoples affected by their operations.

F. PANAMA

In October and November 2023, Panamanians took to the streets in record numbers to denounce a mining contract between Canada’s First Quantum Minerals and the Government of Panama.⁵⁶ For years, First Quantum has operated its massive open-pit copper mine in legal limbo, as its concession was declared unconstitutional in 2017.

When a new deal was announced that would extend the mine’s operations for 20 years, organizations such as Panama Vale Más Sin Minería (Panama is Worth More Without Mining) – a coalition of conservation and environmental organizations, together with educators, workers, health professionals, youth groups, Indigenous communities and farmers – protested daily for nearly two months against the new mining contract, as well as the widespread environmental and social harms caused by existing mining operations. They achieved what many thought impossible: the Supreme Court declared the contract unconstitutional and the government declared a country-wide moratorium on new mining.

This victory came at a cost. A new report commissioned by the Foundation for Integral Community Development and the Conservation of Ecosystems in Panama (FUNDICCEP) and the Panamanian

52 Jen Moore, Roch Tassé, Chris Jones, and Esperanza Moreno. 2015. *In the National Interest?: Criminalization of Land and Environmental Defenders in the Americas*. https://miningwatch.ca/sites/default/files/inthenationalinterest_fullpaper_eng_1.pdf

53 Amnesty International Canada’s submission to public consultations on a potential free trade agreement between Canada and Ecuador. 2023. <https://amnesty.ca/human-rights-news/amnesty-international-canadas-submission-to-public-consultations-on-a-potential-free-trade-agreement-between-canada-and-ecuador/>

54 MiningWatch Canada. 2024. *MiningWatch’s Viviana Herrera Testifies before Canada’s International Trade Committee on a Possible Ecuador-Canada Free Trade Agreement*. <https://miningwatch.ca/blog/2024/2/14/mining-watches-viviana-herrera-testifies-canadas-international-trade-committee>

55 MiningWatch Canada. 2023. *MiningWatch Canada submission to Canada-Ecuador Trade Consultations*. *Global Affairs Canada. Trade Policy and Negotiations Division (TCE)*. https://miningwatch.ca/sites/default/files/21-02-2023-miningwatch_canada_submission_to_the_government_of_canadas_consultation_on_a_possible_canada-ecuador_free_trade_agreement.pdf

56 MiningWatch Canada. 2023. *People Power and Pushback: First Quantum’s Stock Price Plummets Amidst Massive Protests in Panama*. <https://miningwatch.ca/blog/2023/11/1/people-power-and-pushback-first-quantums-stock-price-plummets-amidst-massive>

National Network in Defense of Water with the support of Earthworks and MiningWatch Canada, documents a disproportionate use of force against protestors, police brutality, and legal charges brought against people for exercising their right to protest.⁵⁷

Panamanian police arbitrarily arrested more than 1500 people during the protests and opened investigations against 175 people, using the threat of further criminalization as a fear tactic against those opposing mining interests in the country. "In Chiriqui, in the west of the country, 21 people were sued for \$50 million by the Chiriqui Chamber of Tourism and accused of being 'terrorists' and 'kidnappers' – many of them long-time environmentalists and activists."⁵⁸ There were also five deaths during the protests – two hit-and-run fatalities, two murders, and one person who died from heat stroke.

The Canadian government has shown its strong support for First Quantum Minerals throughout the negotiation for the new mining contract.⁵⁹ Even as protestors were met with violence, and First Quantum tried to avoid mine closure, Canada's Minister of Export Promotion, International Trade and Economic Development Mary Ng publicly announced that it is her job to advocate in support of the Canadian company. When asked about the protests in Panama and her role in advocating for First Quantum, Minister Ng said the following:

First Quantum Minerals is a really important Canadian company, providing, really, copper essentially, their work is essential... Obviously, what the Panamanian government has decided with respect to, you know, this contract and so forth, is what the Panamanian government has decided, but, you know, but my job as the trade minister is [to] make sure that I continue to always advocate for a Canadian company whether they operate in Panama or in any, anywhere in the world.⁶⁰

In another interview, Minister Ng is quoted as saying in regard to First Quantum:

I've met with them, I continue to meet with them, and really, I'm looking to supporting the Canadian company... as best as we can... I'll stand up for Canadian companies where they operate and First Quantum has operated in Panama for many years.⁶¹

57 Foundation for Integral Community Development and the Conservation of Ecosystems in Panama (FUNDICCEP) and the Panamanian National Network in Defense of Water. 2024. *Human Rights Violations, Abuses, and Incidents Registered During the Protests Against the Mining Contract in Panama (October-November 2023)*. <https://mining-watch.ca/2024/5/6/human-rights-violations-abuses-and-incidents-registered-during-protests-against-mining>

58 *Ibid*

59 Canada in Ecuador @CanadaEcuador. "The Embassy congratulates the Government of Panama and First Quantum Minerals (FQM) for finalizing the draft concession agreement on the future of Cobre Panamá... FQM is a world-class Canadian company and an ideal partner whose contribution will bring tangible and long-lasting benefits to local communities and all Panamanians for years to come." Twitter, March 8, 2023, 11:10. <https://x.com/CanEmbPanama/status/1633500385787760640>

60 CTVW5. 2024. *How a Canadian copper mine triggered an uprising in Panama | W5 investigation*. https://www.youtube.com/watch?v=tbKxAekIn_g

61 Reuters. 2024. *Canadian government aims to support First Quantum after mine closure order -minister*. <https://www.reuters.com/markets/commodities/canadian-government-aims-support-first-quantum-after-mine-closure-minister-says-2024-02-06/>

3. RECOMMENDATIONS

A. Regarding the protection of human rights defenders

The ineffectiveness of *Voices at Risk* is a symptom of a fundamental underlying reality, which is that successive Canadian governments have clearly signalled to the civil service, foreign affairs officials and mission staff that they have a *mandate* to promote and protect the economic interests of Canadian mining companies operating overseas; by design or default, protection of human rights defenders has consistently remained secondary to this imperative. The status of *Voices at Risk* as a *guideline*, not a *mandate* is telling in this regard. Also telling is that the Public Service Integrity Commissioner (see case b. above) did not consider *Voices at Risk* as compelling on civil servants or a guideline that the appropriateness of their behaviour could be measured against.

The following recommendations will not create greater protection for human rights defenders who speak out about rights violations by Canadian mining companies operating overseas, unless the guidelines receive the status of a mandate that must be fulfilled by Canadian civil servants at all levels. The following recommendations are suggestions. If the Government of Canada is serious about making *Voices at Risk* an effective tool for the protection of rights defenders, the government should initiate a public dialogue on the guidelines that specifically includes rights defenders.

- While protecting the rights of individual defenders, there should be regular public reporting of the ways in which the guidelines have been implemented. Information could be aggregated by country, naming the sectors involved, the types of support provided, the outcomes achieved, among others.
- There should be a means of by which the effectiveness of the guidelines is independently reviewed⁶² on a regular, at least yearly, basis. This should be an opportunity for human rights defenders who remain at risk, or whose rights remain violated, to bring their cases forward for an independent review.

B. Regarding the creation of a credible non-judicial grievance mechanism

In 2018, Canada announced the creation of a Canadian Ombudsperson for Responsible Enterprise (CORE) who would receive complaints against Canadian companies in the mining, oil, and gas sectors, as well as in the garment sector.⁶³ The creation of this office was the culmination of a decade of advocacy by Canadians and Canadian civil society organizations. The Government of Canada committed to the creation of an Ombudsperson who would be effectively independent of the government, who could independently investigate complaints and who would be empowered

62 Consideration should be given here to review by an appropriate body outside of the Canadian government.

63 The creation of the CORE became necessary as Canada's National Contact Point for the OECD Guidelines has remained ineffective in providing relief to complaints over its 24-year history, including in its handling of 21 complaints against Canadian mining companies. In spite of decades of constructive criticism of the NCP by MiningWatch, peer reviewers, UN agencies and others, and despite models of effective NCPs in other countries, the Canadian NCP has remained ineffective and even harmful by design. See Catherine Coumans and Marian Ingrams. 2022 *Proposed Revisions to National Contact Point Procedures Again Fall Short of Necessary Reforms*. MiningWatch Canada and OECD Watch. May 2022: <https://www.miningwatch.ca/blog/2022/5/20/proposed-revisions-national-contact-point-again-fall-short-necessary-reforms>

to compel witness testimony and documents, among others. In 2019 the first Ombudsperson was hired for a five-year mandate, but she was created as a special advisor to the Minister of International Trade Diversification and without the investigatory powers to which the Government of Canada had committed.⁶⁴

On April 30, 2024, the Ombudsperson's five-year appointment was not renewed. She was replaced by an interim Ombudsperson⁶⁵ with a 30-year history as a career diplomat. We are aware that people who had cases before the CORE were not contacted about the imminent transition. A month earlier, in March 2024, the Ombudsperson had completed her first final report based on an investigation into allegations against Canadian mining company Dynasty Gold. In a statement regarding the Dynasty Gold case, she was clear on the need for the CORE to be equipped with the investigatory powers to compel witness testimony and documents:

Government can and should better equip the CORE to fulfill its mandate to promote and ensure responsible enterprise on the part of Canadian companies operating outside of Canada. In particular, the CORE should be granted the ability to compel documents and testimony from the companies it investigates.⁶⁶

In the same statement, the CORE pointed to two independent reviews she had commissioned that include many more recommendations for how the Ombudsperson's office can be strengthened:

Enhanced investigative tools are just one of the ways in which the CORE's structure could be improved. Many other useful recommendations are included in 2 research papers on ombud independence that can be found on our website. Meaningful reform would allow the CORE to build on all that it is achieving in its current form.⁶⁷

The recommendations in these independent papers should form the basis for a public discussion on how the CORE can be strengthened.⁶⁸

64 This commitment could be found, among others, on the Global Affairs of Canada website in 2018 in its Question and Answers section on the newly created CORE: "The Government is committed to ensuring that the Ombudsperson has all the tools required to ensure compliance with information requests—including the compelling of witnesses and documents." See, <https://cnca-rcrce.ca/2020/03/23/brief-history-core/>

65 Global Affairs Canada. April 30, 2024. *Minister Ng announces appointment of interim Canadian Ombudsperson for Responsible Enterprise*. <https://www.canada.ca/en/global-affairs/news/2024/04/minister-ng-announces-appointment-of-interim-canadian-ombudsperson-for-responsible-enterprise.html>

66 CORE. March 26, 2024. *Statement by Sheri Meyerhoffer, Canada Ombudsperson for Responsible Enterprise (CORE), on the publication of the Office's first Final report*. https://core-ombuds.canada.ca/core_ombuds-ocre_ombuds/news-nouvelles/2024-03-26-statement-declaration.aspx?lang=eng

67 *Ibid*

68 Chris Gill. May 24, 2023. *Ombud Independence and the Venice Principles*. https://core-ombuds.canada.ca/core_ombuds-ocre_ombuds/ombud_independence-independance_ombudsman.aspx?lang=eng; Jennifer Zerk. May 25, 2023. *The role and significance of independence of State-based non-judicial grievance mechanisms under "Pillar 3" of the UN Guiding Principles on Business and Human Rights*. https://core-ombuds.canada.ca/core_ombuds-ocre_ombuds/role_significance-role-importance.aspx?lang=eng [Note: both of these reports were not made public by the CORE until March of 2024].

C. Regarding establishing Mandatory Human Rights and Environmental Due Diligence

MiningWatch Canada is a founding member and serves on the Steering Committee of the Canadian Network on Corporate Accountability (CNCA). The signature campaign of the CNCA is for the creation by the Government of Canada of mandatory human rights and environmental due diligence legislation (mHREDD):

The CNCA campaigns for the kind of law that will protect people and the environment: a mandatory human rights and environmental due diligence law. This kind of law requires companies to carefully assess the risk of harm to people and the environment when doing business, do what's needed to minimize the risk, remedy any existing harm, and do everything in their power to prevent future harm. If a company fails to do any of these things, this law gives people negatively impacted by the company's actions the power to seek justice in Canadian courts.⁶⁹

The CNCA's model law, the *Corporate Respect for Human Rights and the Environment Abroad Act*,⁷⁰ provides lawmakers with a blueprint for writing into Canadian law the corporate duty to respect human rights and the environment. This legislation has already been tabled in parliament through private member's Bill C-262.⁷¹ The Government of Canada should pass this legislation.

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⁶⁹ See, <https://cnca-rcrce.ca/campaign-pass-a-due-diligence-law/>

⁷⁰ See, <https://cnca-rcrce.ca/wp-content/uploads/2023/12/2021-05-31-The-Corporate-Respect-for-Human-Rights-and-the-Environment-Abroad-Act-May-31-2021.pdf>

⁷¹ Bill C-262. November 22, 2021. *An Act respecting the corporate responsibility to prevent, address and remedy adverse impacts on human rights occurring in relation to business activities conducted abroad.* <https://www.parl.ca/legisinfo/en/bill/44-1/c-262>