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Feds won't change Harper-era mining ethics office

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The Trudeau government won't be making changes to the role of a controversial corporate social responsibility counsellor for the mining sector, according to a government spokesperson.

The Office of the Extractive Sector Corporate Social Responsibility Counsellor has been [criticized in the past by advocates for tougher action by Canada on human rights abuses](#) connected to Canadian-owned mines abroad.

The office, created by the Conservative government in 2009, was only able to produce reports on five disputes related to corporate social responsibility that were investigated during the four-year tenure of the first counsellor, Marketa Evans, who resigned from the role in 2013. As well, the mining companies involved in three of those disputes refused to take part in the full review process, according to reports published by the office.

The office was given [a new direction by the Conservatives in 2014](#) after Ms. Evans resigned. But the current government is not planning to make any changes to the office, currently under its second counsellor, Jeffrey Davidson, said Global Affairs Canada spokesperson François LaSalle.

That doesn't sit well with a pair of advocates for reform of Canada's regulation of extractive companies abroad, who say the CSR counsellor does little to hold to account companies in those sectors that are linked to human rights abuses.

However, lobby groups for Canada's mining industry say the office of the CSR counsellor hasn't had enough time to work under its new mandate, and plays an important role in resolving disputes out of the courts.

Office working under new role

The Office of the CSR Counsellor was set up to be "a resource that people can draw on to reduce and to constructively resolve conflict between project-affected communities and Canadian oil, gas and mining companies outside of Canada," according to its website.

That includes "advisory" and "early dialogue facilitation" roles, and promoting the use of Canada's voluntary CSR strategy, which the government established in 2009 and updated in 2014, according to the office's website.

The office's initial role included reviewing the CSR practices of Canadian resources companies abroad, according to its first annual report to parliament.

However the office is not able to levy any penalty on mining companies for failing to cooperate with its reviews, though revisions to Canada's CSR Strategy in 2014 allowed the government to withdraw diplomatic support from mining companies that fail to do so.

Ms. Evans "had no power to do anything" to hold implicated mining companies to account during her tenure, said Shin Imai, a law professor at York University and director of the Justice and Corporate Accountability Project who focuses on Canada's international obligations to regulate mining companies in Latin America.

Ms. Evans is currently working as an executive with Canadian Feed the Children. She hung up when contacted by *Embassy*.

Mr. Davidson was appointed to take on the vacant post of CSR counsellor in March 2015. His role is different from the one assigned to Ms. Evans; the Conservative government's 2014 update to its CSR Strategy redirected the counsellor away from reviewing disputes—which is to be handled by Canada's OECD contact point—and toward promoting "strong CSR guidelines" for mining and gas companies and preventing and resolving disputes "in their early stages."

Canada's OECD national contact point is an interdepartmental committee chaired by Global Affairs Canada that serves to promote "awareness" of the Organization for Economic Co-operation and Development's guidelines for responsible social and environmental practices for multinational enterprises, and to help the business community to resolve issues that arise from the implementation of the guidelines, according to its website.

Mr. Davidson has worked on seven files since taking on the role of counsellor, according to his executive assistant. He declined to provide details on the parties involved in each case, but indicated that Mr. Davidson is able to work with mining companies, governments, NGOs and other third-parties.

Mr. Davidson is currently travelling throughout Africa holding CSR sessions with "stakeholders," and was scheduled to give a presentation on "Canada's CSR good practices" at the Indaba mining conference in South Africa, which ran from Feb. 8 to 11, according to his office. He was unavailable for an interview before press time.

'They have no power to do anything'

The government's decision not to strengthen the role of the CSR counsellor "sucks," said Catherine Coumans, a research coordinator at MiningWatch Canada, an NGO that advocates for better environmental and human rights practices by mining companies.

It's not clear what Mr. Davidson's work promoting CSR practices has done to deal with issues raised by communities that oppose or are negatively affected by mining operations of Canadian companies, she said.

"There's certainly a lot of taxpayer dollars going into him traipsing around," but little to show for it, she said.

Mr. Imai went further, saying that there was "really no point" to the existence of the CSR counsellor. "They don't do anything, they have no power to do anything," he said.

Liberal MP John McKay has also been a vocal critic of the office of the CSR counsellor in the past, calling it "toothless" early last year, before Mr. Davidson began his term. Mr. McKay, now the parliamentary secretary for national defence, told *Embassy* he has passed on his concerns about the CSR counsellor's office to Foreign Minister Stéphane Dion.

Ombudsman promised

The Liberal Party promised during the election campaign to create an independent ombudsman "to advise Canadian companies, consider complaints made against them, and investigate those complaints where it is deemed warranted," according to a Sept. 23 letter from party president Anna Gainey to the Canadian Network on Corporate Accountability.

"Really, that's what we need," said Mr. Imai, adding an ombudsman would need to have the power to investigate potential cases of wrongdoing without relying only on input from the implicated company.

Global Affairs Canada did not respond by press time when asked when the government would establish an ombudsman for the extractive sector, or how its role would differ from that of the CSR counsellor and OECD contact point.

The lobby group for Canada's mineral exploration companies supports the work of the CSR counsellor, says Nadim Kara, a senior program director for the Prospectors and Developers Association of Canada.

It's too early into Mr. Davidson's term and the office's new role to shut down the CSR counsellor, he said, adding Mr. Davidson has not yet had the time or resources to act on his mandate of preventing and resolving disputes.

PDAC is "very supportive" of non-judicial dispute resolution mechanisms, and the CSR counsellor's office and the OECD contact point are important tools for the industry, he said.

The Mining Association of Canada also supports the office of the CSR counsellor, according to an emailed statement by vice president Ben Chalmers.

The 2014 update to the government's CSR Strategy, and the ability of the government to withdraw support to companies that don't cooperate with the CSR counsellor, "makes the CSR Counsellor far more useful in helping to resolve disputes," he wrote.

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