

Canadian officials ignored their obligation to support activist detained in 2017 over mining dispute in Peru: report

A report from the Justice & Corporate Accountability Project uses access-to-information records to piece together how embassy and trade commission officials responded when Jennifer Moore of MiningWatch Canada was detained by Peruvian police in April 2017.



Deputy Prime Minister Chrystia Freeland, seen here on Nov. 28, launched the Voices at Risk guidelines in 2016, when she was Canada's minister for international trade. *The Hill Times* photograph by Andrew Meade

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A recent report says the Canadian government failed to follow its own policies when called upon to support a Canadian activist who was detained by Peruvian police and declared a threat to national security because of her work with local communities affected by a Canadian-owned copper mine.

On Dec. 10, the Justice & Corporate Accountability Project (JCAP), a legal clinic affiliated with Osgoode Hall Law School in Toronto and the faculty of law at Thompson Rivers University in Kamloops, B.C., released [a report](#) called *The Two Faces of Canadian Diplomacy*. It used access-to-information records to piece together how Canadian embassy and trade commission officials responded when Jennifer Moore of MiningWatch Canada was detained by Peruvian police in April 2017, and when she subsequently challenged her treatment through the Peruvian court system.

Charis Kamphuis, a co-author of the report and a law professor at Thompson Rivers University, told *The Hill Times* this is the first study of the Canadian government's adherence to its [Voices at Risk](#) guidelines, which were introduced in 2016 by then-international trade minister Chrystia Freeland (University-Rosedale, Ont.). The policy provides detailed guidance for Canada's diplomatic missions on how to support human rights defenders around the world.

"We see many Canadian officials abjectly ignoring a prominent policy that clearly applies to the situation," said Kamphuis. "In a way, it's not an interesting story because it's very clear cut. It's very obvious that what [Moore] was doing was 100 per cent legitimate. It was supported by local organizations, it was totally legal, she was exercising her free expression rights, she had meaningful relationships with the community, she had been there multiple times."

"And yet Canada did absolutely nothing to support her. Rather, they did everything to ignore her. They had 90 organizations write to them. They had multiple UN bodies ask them questions. And they tried their very best to do nothing."

NDP MP Heather McPherson (Edmonton Strathcona, Alta.) told *The Hill Times* the Trudeau government is "extremely good at saying all the right things" about protecting human rights defenders, but "extremely bad at actually putting their rhetoric into practice" when doing so would affect trade interests.

"If Canadian corporations are on one side of the balance and a human rights defender is on the other, we have seen, time and time again, this government refuse to stand up for human rights defenders," said McPherson, who worked for international development non-profits for more than 20 years before going into politics.



NDP MP Heather McPherson says the Liberal government says the right things on human rights but is 'extremely bad at actually putting their rhetoric into practice' when doing so would affect trade interests. *The Hill Times* photograph by Andrew Meade

McPherson also questioned whether Canada's diplomatic staff around the world have the training and resources necessary to meet their obligations under the Voices at Risk policy.

Canadian activist and American filmmaker detained in 2017

[Moore](#), then the Latin America program director for the non-profit watchdog group MiningWatch Canada, and American filmmaker John Dougherty were detained by Peruvian police in April 2017 after screening [Dougherty's documentary film](#) "Flin Flon Flim Flam," which is critical of the Canadian mining company Hudbay Minerals.

Hudbay owns the Constancia copper mine in southern Peru, and Moore and Dougherty had been in the country for a week, screening the film for local communities, before they were detained. They were detained for four hours in Cusco, Peru, were labelled threats to national security, and permanently banned from re-entry to the country.

Moore, who returned to Canada after being released, told *The National Observer* [in May 2017](#) that their detention had to do with “criminalizing international solidarity and the sharing of independent information” with local communities that had been requesting it. Moore and Dougherty wrote [a joint letter](#) in June 2017 to the Canadian and American ambassadors to Peru saying they were “deeply appreciative of the support that the Canadian and the U.S. consular services provided” during and immediately following their “illegal and arbitrary detention,” but urged the diplomats to do more to address the criminalization of dissent in Peru.



Thompson Rivers University law professor Charis Kamphuis says Canadian embassy and trade commission officials ignored the Voices at Risk guidelines in a high-profile case in Peru in 2017. *Photograph courtesy of Charis Kamphuis*

Kamphuis and her students at Thompson Rivers have been involved in this case since they intervened in support of Moore in a Peruvian court when she and civil society groups challenged the ban on her re-entry to the country. The court ruled that the Peruvian national police had violated the Peruvian constitution as well as Moore’s rights. It also wrote that the police force was biased in favour of Hudbay and against Moore because of its contract to provide security services for the mine, and ordered that the officers involved be investigated.

The ruling has since been appealed and is working its way up through Peru’s court system. The JCAP report argues that Canadian embassy and trade commission officials did not adequately support Moore, and did not properly probe the relationship between the Peruvian police and Hudbay.

Global Affairs Canada (GAC) spokesperson Jason Kung said in an email the department is currently reviewing the recommendations in the JCAP report, but it could not discuss specific consular cases due to privacy considerations.

Kung added that “the safety and security of Canadians is our top priority,” and the Government of Canada “works across government and with international partners to help ensure that Canadian businesses at home and abroad respect human rights.”

“We are committed to keep raising security and human rights in our discussions with Peruvian officials, international partners, companies, and NGOs operating in Peru,” said Kung.

The department did not address specific questions about the report’s assertions that Canadian officials failed to adhere to the Voices at Risk guidelines in this case, and that they failed to properly verify the details of Moore’s case before deciding on a course of action.

Kamphuis said the guidelines are specifically intended to protect human rights defenders like Moore who, by definition, raise concerns about human rights and environmental impacts in ways that “might ruffle the feathers of folks in power.”

“The level of intentionality there is quite remarkable. It’s not just that they forgot or they didn’t know,” said Kamphuis. “It was obvious that this was a problem for Hudbay, and [Canadian officials] didn’t want to have to acknowledge that. It was obvious that they had obligations to Jen Moore under their policies, and they didn’t want to acknowledge that. Because they know her and they know she’s critical of the Canadian government, and they know she’s critical of companies, and they don’t want to support a defender that’s critical.”

A spokesperson for Hudbay Minerals said in an email that the company believes in freedom of expression, and that “the speculative accusations from Jennifer Moore, John Dougherty and MiningWatch claiming Hudbay played any part in their detention in Peru in April 2017 are simply not true.”

“The police were not acting pursuant to Hudbay’s direction or under any contractual arrangement with Hudbay,” added Sam Best of Proof Strategies, writing on behalf of Hudbay. “Although it should be acknowledged that contractual agreements between the police and private parties for security related services are legal and expressly regulated under Peru law.”

Based on records obtained through access-to-information requests, the JCAP report paints a picture of how Canadian embassy officials in Peru and trade commission officials in Ottawa addressed the case.

Oddly, said Kamphuis, the Canadian ambassador to Peru seemed to have no presence in the deliberations, at least as far as written records show. “We often see an ambassador much more present,” she said, adding this was a high-profile case given how many United Nations bodies and civil society organizations reached out to the Canadian government on Moore’s behalf.

Kamphuis said when the trade commission’s responsible business practices unit in Ottawa was brought into the loop, it uncritically accepted Hudbay’s assessment that the Peruvian police were justified in their actions towards Moore. Access-to-information records show that a Hudbay employee wrote in an email to a senior official in Canada’s trade commission that the company was [“sympathetic to the concerns of the Peruvian government”](#) about social unrest being stirred up in part by “ideological opponents of mining” and by “foreign activists.”

Kamphuis said that, at that point in April 2017, trade commission officials only knew that “a Canadian citizen who was supporting communities affected by Hudbay, and who was critical of Hudbay’s impact, has been called a threat to national security, accused of inciting violence, and has been banned from the country for life.”

“If you work in the area of business and human rights, you have to have an understanding that this is a problem,” said Kamphuis. “There’s just some minimum due diligence.”

Department culture is to ‘be suspicious of the defender and support the company at all costs,’ says law professor

Speaking with *The Hill Times* [last March](#) about the previous Canadian government’s support for another Canadian mining company in Guatemala, Kamphuis said she believes GAC and its predecessors have not followed their own human rights policies and Canada’s international human rights commitments when providing “economic diplomacy” support to Canadian companies overseas, especially in mining and other extractive sectors.

She said the culture within Global Affairs Canada is to “disbelieve the defender, ignore the defender, be suspicious of the defender, and support the company at all costs.”

As a Canadian activist with a Canadian passport and access to a larger network of civil society organizations, Moore has greater access to protection than local activists and community members. “If this can be done to her, then the bar moves. The next journalist, the next activist, or human rights worker is at risk,” said Kamphuis.

The current government established the Office of the Canadian Ombudsperson for Responsible Enterprise (CORE) within GAC in 2019 as a mechanism to investigate environmental or human rights complaints against Canadian companies operating abroad. Kamphuis said its mandate also allows it to recommend that the government review its policies on responsible business conduct abroad.

“The CORE could absolutely take this on as an issue,” said Kamphuis, but said this was not one of the report’s recommendations because her partner organizations have “lost faith and trust” in CORE as a mechanism for improving matters on this file.

Kamphuis said JCAP’s latest report and its March report about events in Guatemala in 2010 and 2011 are evidence that Canada’s “current policy approach to economic diplomacy and human rights defenders is not working.”

“If Canada is committed to these things,” she said, “we need a complete rethink.”

McPherson said that, as the NDP representative on the House subcommittee on International Human Rights, she would be putting forward a motion to conduct a comprehensive review of Canadian officials’ actions in this case and of the Voices at Risk guidelines more broadly, [as recommended by](#) the JCAP report.

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