

Canada not walking the talk on its miners' abuses abroad, campaigners say

by [Chris Arsenault](#) on 24 July 2020

Mongabay Series: [Land rights and extractives](#)

- *Canada is home base for nearly half of the world's mining companies, but the country's efforts to improve corporate accountability for environmental and human rights violations have fallen short, observers say.*
- *Internal documents show the government has stressed a voluntary approach to regulation, despite campaign promises to address abuses and outcry from campaigners.*
- *A government spokesperson says Canada has launched new initiatives to safeguard environmentalists and land-rights activists and to promote corporate responsibility.*
- *A recent Supreme Court decision could open the country's legal system to allow victims of corporate abuses overseas to sue companies in Canada.*

Home to nearly half of the world's major mining companies, Canada has failed to fully implement promised reforms to hold corporations accountable for abuses committed overseas, according human rights advocates.

Ahead of its 2015 election win, Canadian Prime Minister Justin Trudeau's Liberal Party promised to create an independent ombudsperson to investigate companies that violate human rights or poison the environment when extracting resources in the developing world, along with better protections for land rights campaigners there.

Officials with Global Affairs Canada, the foreign ministry, began meeting with human rights activists, as described in internal government files. Going into one meeting, in March 2017, campaigners told Mongabay they felt a sense of optimism: after a decade of Conservative Party rule, when officials froze NGOs out of the decision-making process, a new administration promising "sunny ways" and increased corporate accountability wanted to hear from them.

Today, though, land rights campaigners opposed to Canadian mining operations face more threats than ever, according to the activists. And while the government's rhetoric has stressed human rights and accountability, it hasn't introduced binding rules to crack down on companies that commit abuses overseas.

But a decision by Canada's Supreme Court earlier this year could provide an avenue for redress in the courts when campaigners say the political system has failed.

Allegations of abuse

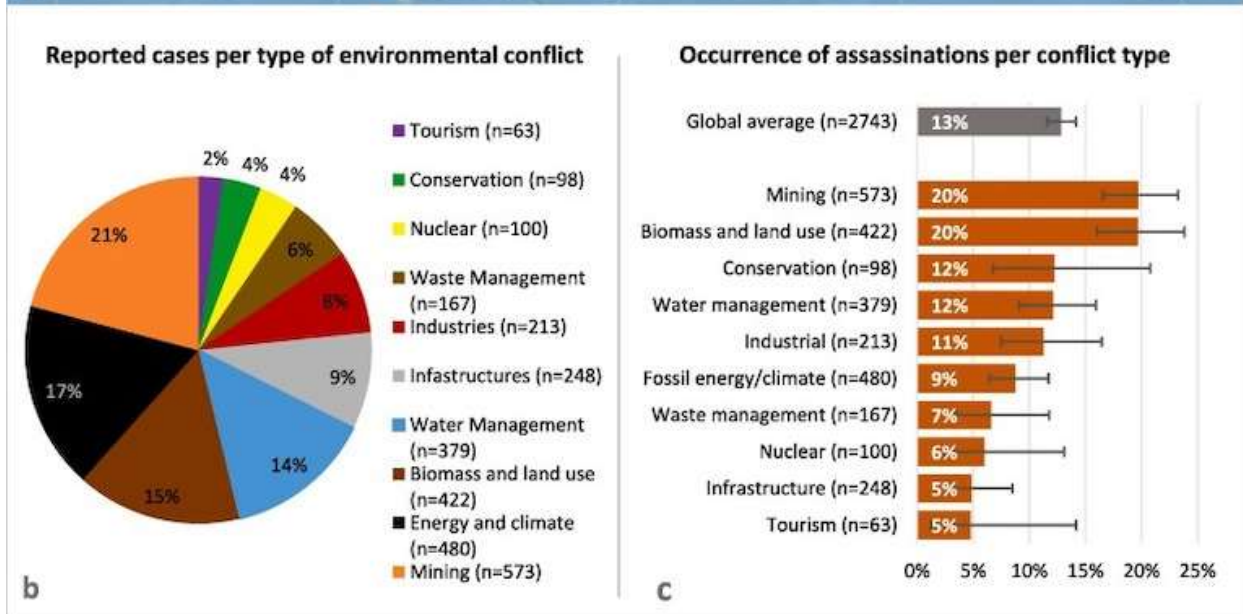
Just over 600 pages of partially censored Canadian foreign ministry documents, accessed under freedom of information laws, detail the Trudeau government's approach to human rights defenders and the mining industry. They include internal policy briefings for officials, minutes from meetings with activists and others, background research, and other correspondence for 2017 and part of 2018. A litany of abuse allegations dogging Canadian mining companies features prominently.

The documents cite data in bold from the Toronto-based Justice and Corporate Accountability Project, a legal advocacy group, noting that "28 Canadian mining companies and their subsidiaries were linked to 44 deaths, 403 injuries, and 709 cases of criminalization, including arrests, detentions, and charges in Latin America between 2000 and 2015."

"Considering that over 60% of mining concessions held by foreign companies in Ecuador are in Canadian companies' hands, mining issues are of great interest to Canada," reads a 2017 internal foreign affairs department briefing on Ecuador's human rights situation that was marked "secret" and included in the documents.

"However, strong opposition by some indigenous and environmental groups continues to pose problems for mining development. Local human rights organizations have reported abuses from mining companies, (including, in the past, from Canadian companies), and from security forces hired by these companies," the briefing continues.

When it comes to environmental conflicts between companies and communities, Canadian firms are overrepresented compared to their international peers, McGill University natural resources researcher Leah Temper [told Radio Canada International](#). She was part of an international team that published a [study](#) on global environmental conflicts this month in the journal *Global Environmental Change*. Canadian firms are involved in 8% of the more than 2,700 conflicts analyzed in the study, Temper said.



A study published this month analyzed 2,743 environmental conflicts registered in the [Environmental Justice Atlas](#). Showdowns around mine sites are the most common type of environmental conflict globally, with 21% of global environmental conflicts and 20% of the associated assassinations linked to mining, according to the study. Image from [Scheidel et al \(2020\)](#).

Examples include the recent death of Mexican labor campaigner Óscar Ontiveros Martínez. He was allegedly murdered on May 12 by forces linked to organized crime groups operating around a mine in Guerrero state owned by the Canadian company Torex Gold Resources, according to the Ottawa-based advocacy group MiningWatch Canada. His assassination is believed to stem from his involvement in a 2017 strike at the mine. There have been at least three other murders and one disappearance related to the labor action. In a [letter](#) responding activists' inquiries, Torex Gold Resources said that the deaths "were criminal matters that were quite outside of our control."

And Vancouver-based Pan American Silver, which operates eight mines in Central and South America, [has been accused of polluting land and stoking violence](#) in Peru and Mexico, including threats against local community members, according to research released in March by the Environmental Justice Atlas. Pan American Silver denies the charges.

Stock markets in Toronto are the world's biggest listing venues for mining companies, accounting for almost 50 percent of global listings, according to official data. This means Canadian policies on dealing with environmental and human rights abuses abroad are particularly important for regulating the sector internationally.

Pledges unfulfilled

Activists attended the meetings with foreign ministry officials to push for changes, armed with firsthand accounts of human rights violations surrounding Canadian-backed mines.

"The delegation ... urged the Canadian government to take steps to provide access to remedy in Canada to victims of human rights abuses by Canadian companies," read minutes from the March 2017 meeting, which included a delegation from the Philippines describing its experiences with Canadian mining activities. "More precisely, they encouraged the Liberal Party to fulfil its electoral promise of creating an ombudsman for the Canadian extractive sector."

The government created that position last year, but without the power to subpoena documents or penalize companies, making it effectively toothless, activists told Mongabay.

The government has also failed to follow through on binding rules for companies operating abroad, a move it took deliberately, the government documents reviewed by Mongabay indicate.

"To-date, Canada has taken the position that it does not support a legally-binding instrument on Transnational corporations and other business enterprises," states an internal government briefing for an official speaking on a U.N. panel about business and human rights on Nov. 28, 2017, that was included in the documents.

Kyle Matthews, executive director of the Montreal Institute for Genocide and Human Rights Studies at Concordia University, said the government's current voluntary approach to human rights regulations doesn't "send a strong message."

"Canadian mining firms are among the largest in the world and are present from Latin America, to Asia, to sub-Saharan Africa," Matthews said in an interview. "People in the private sector don't have an international responsibility to uphold human rights," he added, so government regulation is essential for holding companies to account when abuses happen.

Action by the courts

However, a decision by Canada's Supreme Court earlier this year could change that, potentially instituting legal liability at home for Canadian companies operating overseas.

In a split decision in February, the [Supreme Court ruled](#) that a case filed by Eritrean refugees who say they were victims of modern slavery at a mine part-owned by Toronto-listed Nevsun Resources could proceed in Canadian courts.

The three plaintiffs say they were [conscripted by Eritrea's military](#) and forced to build the Bisha gold, zinc and copper mine starting in 2008. They say they were forced to work long days in filthy and dangerous conditions with minimal food or pay, according to court filings.



The Bisha copper and gold mine in Eritrea, operated by Nevsun Resources, is pictured in 2017. A lawsuit by former mine employees who say they were victims of forced labor will be heard in Canada, following a landmark decision by the Supreme Court in February. Image by Martin Schibbye via [Wikimedia Commons \(CC BY-SA 4.0\)](#).

Nevsun, now owned by China's Zijin Mining Group, denies the charges. The company argued that the legal case should not be allowed to proceed in Canadian courts because they couldn't rule on the laws of foreign states and indefinite military service is compulsory under Eritrean law. However, Canada's Supreme Court ruled that customary international law prohibits slavery, so the case could proceed.

[Other cases against Canadian mining companies have reached Canada's court system.](#) But in being issued by the Supreme Court, the Nevsun decision was a "first" in Canadian legal history, [wrote](#) lawyers from the Toronto-based firm McCarthy Tétrault, and "it may result in more actions being brought against Canadian companies operating in countries notorious for human rights concerns." The firm handles mining litigation but was not involved in the Nevsun case.

Following the Supreme Court's decision, the Nevsun case will be heard by a lower court in British Columbia next year in what is expected to be a drawn-out legal battle.

The two main industry bodies representing Canadian mining firms, the Prospectors and Developers Association of Canada and the Mining Association of Canada, both declined to comment for this story.



The Supreme Court of Canada, in Ottawa. Campaigners say the court's February ruling against Nevsun Resources will allow Canada's legal system to play a role in holding mining companies accountable for abuses committed overseas. Image by Dig Deeper via [Wikimedia Commons](#) (CC BY-SA 4.0).

'A communications problem'

Prior to the Nevsun decision, Canadian officials had responded to corporate abuses overseas "as a communications problem, not as a real problem," Jamie Kneen, communications coordinator for MiningWatch Canada, told Mongabay. Kneen attended the March 2017 meeting and has seen the internal files.

"They call it 'issues management,'" Kneen said. "They are more concerned about the impacts that any publicity would have, or the impact that any sort of resistance would have, rather than the actual abuses people are reporting."

Connie Sorio, a campaigner with the Toronto-based rights group Kairos, also attended that meeting. She said the government hasn't kept its pre-election promises despite seeming to take the issues seriously during the meeting.

"None of this has been translated into concrete actions to provide redress on the issues communities are facing," she told Mongabay of the government's stated commitments to improved accountability for mining firms.

Government officials at the meeting promised to follow up on threats from paramilitary groups faced by Nenita Condez, an environmentalist on the island of Mindanao in the southern Philippines who had been campaigning against a Canadian-backed mining project, Sorio said. But the officials never contacted her or provided other follow-up, she added.

"Now, it's unfortunate it could be seen as window dressing or good optics," Sorio said.

Government response

Responding to Mongabay's questions about the internal documents, a spokesperson for Canada's foreign ministry said it takes corporate responsibility seriously.

"Human rights are at the core of Canada's foreign policy," Guillaume Bérubé, the spokesperson, said via email. "Responsible business conduct abroad represents a competitive advantage for Canadian business."

In 2019, the government created a program called "Voices at Risk: Canada's Guidelines on Supporting Human Rights Defenders" that offers practical advice for Canadian diplomats on how to assist environmental campaigners and human rights activists overseas who seek help, he said.

While a positive step, Sorio said many lower-ranking embassy staffers in the field aren't familiar with the program and don't know what to do when an environmentalist under threat asks for help.

Canada has also provided \$20 million in funding to the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development, which helps countries better manage their mineral wealth to ensure the benefits are shared equally, while championing a "feminist foreign policy," Bérubé said.

Bérubé did not address what activists consider the government's failure to implement binding rules for companies operating abroad. He did note, however, that the Ombudsperson for Responsible Enterprise can launch reviews on her own initiative, can advise cabinet ministers, and will make reports on corporate conduct publicly available to improve transparency. Moreover, he said, the government can deny trade advocacy support or government-backed loans to companies that refuse to engage with the ombudsperson.



Protesters in Honduras demonstrate against water pollution linked to the mining industry. Campaigners in Canada have called on that country's government to increase support for activists who defend the environment. The Canadian government says its new "Voices at Risk" program does just that, but activists say it hasn't been effective on the ground in places like Honduras. Image by Pedro Landa courtesy of MiningWatch Canada.

Daryl Copeland, a former senior foreign ministry official and currently a senior fellow at the Calgary-based Canadian Global Affairs Institute think tank, described the government's approach to corporate responsibility as "the triumph of process over substance."

"There is lots of busy work, lots of meetings, but little has been accomplished," he said in an interview.

When the Liberals were first elected in 2015 pledging a change in priorities from the previous Conservative government, Copeland said foreign ministry staff were excited. Today, he said, the messages he's hearing from ministry staff "range from frustration to despair."

"The impulse within the bureaucracy to move forward on human rights or any other major file is now lacking," he said. "I don't think that Canada has done a particularly good job — and the record of Canadian mining companies particularly is bad."

Banner image: Residents in Putaendo, Chile, protest against a proposed copper mine planned by the Canadian company Los Andes Copper on April 26, 2020. Putaendo had been declared 'free of mining' following local protests. Activists say the Chilean government took advantage of COVID-19 lockdown measures to approve an environmental license for the mine to continue exploratory drilling. Image courtesy of Putaendo Resiste.

Chris Arsenault is a professor of journalism at Conestoga College in Canada. He has been a long-time foreign correspondent covering resource and environmental issues with the Thomson Reuters Foundation based in Brazil and Italy, and with Al Jazeera in Qatar. Twitter: @chrisarsenault

Citations:

Scheidel, A., Del Bene, D., Liu, J., Navas, G., Mingorría, S., Demaria, F., ... Martínez-Alier, J. (2020). Environmental conflicts and defenders: A global overview. *Global Environmental Change*, 63, 102104. [doi:10.1016/j.gloenvcha.2020.102104](https://doi.org/10.1016/j.gloenvcha.2020.102104)

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