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September 15, 2024

Pan-Africa Affairs Division
Global Affairs Canada
125 Sussex Drive
Ottawa ON K1A 0G2

Re: Government of Canada consultation on the approach to partnerships in Africa

To Whom It May Concern:

The Justice and Corporate Accountability Project (JCAP) is a volunteer-driven transnational, collaborative, community-based legal clinic. JCAP assists in holding corporations and states to account by offering legal knowledge to communities that are negatively affected by natural resource extraction, especially at the hands of Canadian companies. JCAP has cultivated specific expertise in supporting Indigenous and Campesino communities in the Americas and is now expanding its support to local communities in Africa.

We submit this letter in response to the Government of Canada's consultation on partnerships in Africa. JCAP urges the Government to adopt a rights-based approach that aims to reverse the harmful legacy of Canadian extractive companies operating in the region. This approach is critical to ensuring that Canada's economic and diplomatic relations do not perpetuate social, environmental, and political harms in African countries, many of which have endured the negative impacts of Canadian mining, oil, and gas companies for decades.

Since the liberalization of African markets in the late 1980s and early 1990s, Canadian companies have expanded significantly across the continent. While these companies have reaped substantial economic benefits, they have frequently done so at the expense of local communities. The detrimental effects of their operations are well-documented and include environmental degradation, displacement of local populations, and severe human rights abuses. Notable examples include Talisman Energy in the Sudan, Anvil Mining and Banro Corporation in the Democratic Republic of the Congo (DRC), Nevsun Resources Ltd. in Eritrea, Barrick Gold Corporation in Tanzania, Ivanhoe Mines in South Africa, Trevali Mining Corporation in Burkina Faso, Reconnaissance Energy Africa Ltd. (ReconAfrica) in Namibia, and First Quantum Minerals Ltd. in Zambia.

As the Government of Canada reconsiders its approach to partnerships in Africa, it is essential to alter its economic and diplomatic relations to prevent Canadian mining, oil, and gas companies from exploiting weak governance structures. Unfortunately, many African countries face significant challenges in governance and the rule of law. JCAP therefore strongly encourages the Government of Canada to adopt a rights-based approach to its partnerships in Africa that includes the following key components:

1. Limit Canadian economic and diplomatic support to companies that respect human rights

Canadian companies operating in countries such as the DRC, Namibia, and Tanzania have been accused of serious human rights violations. Despite these allegations, the Government of Canada has provided economic and diplomatic support to several of the implicated companies, including Barrick Gold Corporation in Tanzania and ReconAfrica in Namibia. This practice directly contradicts Canada's commitment to upholding international human rights and promoting responsible business conduct abroad.

We recommend that Canadian economic and diplomatic support, including through Export Development Canada and the Trade Commissioner Service, be made contingent on a demonstrable commitment to human rights and environmental protection. This would move Canada away from its reliance on voluntary frameworks, such as the Responsible Business Conduct Abroad Strategy, and toward stricter regulatory measures to ensure corporate accountability.

2. Focus international assistance on countries with strong judicial systems

When African countries are unwilling or unable to ensure effective access to remedy for victims of Canadian mining, oil, and gas companies, Canada's international assistance should be directed toward countries that are committed to strengthening their judicial systems or are willing to undertake reforms. Current options for accessing remedy, including the Canadian Ombudsperson for Responsible Enterprise and Canadian courts, are often inaccessible for victims in Africa. Domestic grievance mechanisms in many African countries remain weak, leaving communities without recourse.

Canada should prioritize its international assistance to countries that are committed to improving access to justice and remedy for those harmed by corporate activities. Countries such as Burkina Faso, Ethiopia, Mali, Tanzania, and Zambia, which have weak judicial systems, should not receive support until they demonstrate significant progress in ensuring legal protection and remedies for victims.

3. Protecting human rights defenders

Several Canadian mining, oil and gas companies (including Barrick Gold Corporation, Banro Corporation, and First Quantum Minerals Ltd.) have used strategic lawsuits against

public participation (SLAPPs) to intimidate and silence critics of their operations in Africa. These lawsuits target journalists, human rights defenders, and civil society organizations and aim to suppress public criticism. In many cases, African countries lack the legal mechanisms to protect individuals and organizations from such vexatious litigation.

JCAP urges the Government of Canada to take a strong stance against SLAPPs and to ensure that no Canadian company benefits from diplomatic or economic support if it is involved in such practices. Additionally, Canada should encourage African countries to implement legal protections for human rights defenders to prevent companies from abusing the judicial system to suppress dissent.

Conclusion

JCAP welcomes the Government of Canada's renewed focus on partnerships in Africa. As Minister Mélanie Joly stated during her recent visit to the continent, Canada has neglected Africa for too long, to the detriment of both Canadians and Africans. In the past, Canada played a crucial role in promoting human rights in Africa, including its contributions to the fight against apartheid in South Africa and its efforts to maintain peace in Rwanda before the genocide. However, in recent years, Canada's focus in the region has shifted to prioritizing corporate interests, often at the expense of human rights and environmental protections.

We believe that by adopting a rights-based approach to partnerships in Africa, Canada can restore its leadership role in advancing human rights and promoting sustainable development. We look forward to further dialogue on this issue and are ready to contribute to the development and implementation of a new framework that ensures Canada's economic and diplomatic efforts in Africa align with its global human rights commitments.

Sincerely,

Sara Ghebremusse
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