



June 8 2016

# The Canadian Network on Corporate Accountability (CNCA)

- \* 30 member organisations from across Canada: environmental and human rights NGOs, development organizations, labour unions and solidarity groups.
- \* One simple mission: to ensure that Canadian mining, oil and gas companies respect human rights and the environment when working abroad.
  - \* advocate for policy and law reform
  - \* monitor government policy
  - \* provide advice to ensure that both government and business uphold Canada's international obligations

# Canada: leading in business, lagging in accountability

- \* 50-60 % of world's mining companies headquartered
- \* 40% of the world's mineral exploration capital is raised on Canadian stock exchanges
- \* Canadian government offers various forms of support, promotion and financial protection
- \* Canada is uniquely positioned to become an international leader in responsible natural resource development
- \* However, Canadian companies operating internationally face few human rights and environmental requirements under Canadian law, and we're falling behind international trends (i. e. Europe)

# Let's Make Canada Open for Justice

1. **The creation of an extractive-sector Ombudsperson, and;**
  2. **Providing access to Canadian courts.**
- \* This is an international problem for which Canada is uniquely positioned to offer solutions.
  - \* Voluntary guidelines and codes of corporate conduct are not enough.

# Why now?

- \* Canadian context: Commitments of all but one major political party to create an extractive-sector Ombudsman
- \* Global context – lots of discussions on business and human rights (treaty, European bills, European motion re duty of care, etc.)
- \* Canadians are waiting to see what this government will do (100,000-600,000 taken action, CSO letter)
- \* People around the world – our partners, human rights defenders, UN bodies, the pope – are waiting to see what Canada will do (letter from 180+)
- \* Canadian mining, oil and gas companies are reaching into ever remote areas of the world etc. Kinds and frequency of abuses are staggering. The mechanisms we have in Canada have been shown to be entirely inadequate.

# International Accountability Gap

- \* **Host countries**

- \* Lack of capacity/enforcement or political will
- \* Companies exert undue influence

- \* **International mechanisms**

- \* Aimed primarily at nation states

- \* **Home country (Canada)**

- \* Barriers to access
- \* Mechanisms ineffective

# Canadian out-of-court mechanisms

- \* Perfect illustration of why voluntary mechanisms don't work
- \* Canada's CSR Counsellor's Office:
  - \* Not an Ombudsman
  - \* Does not fulfill recommendations reached by industry and civil society in 2006 National Roundtables on CSR
  - \* Failed to successfully mediate a single case and now operating with complete lack of transparency

## National Contact Point for the OECD:

- \* Not independent
- \* Doesn't investigate
- \* Doesn't recommend nor monitor

# Canada needs an Ombudsman

## Empowered to:

- Investigate **complaints** and **assess compliance** with corporate accountability standards
- Make its findings **public**
- Recommend **remedy**
- Recommend **sanction** (including withholding of political and financial support by the Canadian government)



# Canadian courts are not accessible in cases of overseas corporate abuse

- \* 1997 – Guyana (Cambior’s Omai gold mine)
  - \* Quebec Superior Court → inappropriate venue
- \* 2009– Ecuador (Copper Mesa)
  - \* Ontario Superior Court → no duty of care (no valid cause)
- \* 2010– DRC (Anvil)
  - \* Quebec Court of Appeal → no jurisdiction (2012 SCC)
- \* 3 cases in Ontario: Guatemala (Hudbay)
  - \* Hudbay withdrew Forum arguments
- \* 2015 Tahoe (BC)
  - \* Dismissed – inappropriate venue
- \* 2015 Nevsun (BC) -- TBC

# Canadians and non-Canadians need to be able to access our courts

## **Solutions:**

- \* Facilitate access for non-Canadians to bring civil lawsuits in Canada
- \* Clarification that Canadian courts are an appropriate forum where the company is registered in Canada

# How can you be involved now and in the next 6 months?

- \* Meet with members of parliament and raise Open for justice in those meetings
- \* Ask your friends and colleagues to call/write/tweet their MP
  - \* Use the model letter **to write a personalized note!**
  - \* Remind MPs of their party's commitments to create an Ombudsperson and (for some parties) to facilitate access to Canadian courts.
- \* When meeting with your MP, ask them to publicly support the creation of an Ombudsperson
  - \* Tweet out a photo of you meeting your MP and recording your MP's position. For people who aren't using Twitter, you can send the photo and note to CNCA and we could do it for you. Keep us informed!

# Campaign resources

- \* [www.openforjustice.ca](http://www.openforjustice.ca)
  - \* CNCA Briefing Note: “Canada Needs to be Open for Justice”
  - \* Grid – comparing Ombudsperson, CSR Counsellor and NCP
  - \* FAQs re access to courts + overview of attempts to use Canadian courts (Above Ground)
- \* Campaign pack (can be shared via email)

# Thank you!

\* Any questions?

# Meeting with your MP: Before the meeting

- \* Contact your MP to schedule an appointment
  - \* Identify yourself as a constituent
  - \* Explain you are follow up on a letter you wrote to your MP regarding Open for Justice
- \* Learn more about your MP:
  - \* Biography
  - \* Role in Parliamentary committees roles, etc.
- \* Useful resource: [www.parl.gc.ca](http://www.parl.gc.ca)

# Tips for your meeting

- \* Be conscious and respectful of time; **ask how long** you have and then stick to it
- \* Do not take up the entire time with your presentation; **leave time for discussion**
- \* Identify yourselves as **a constituent**
- \* Use any **personal** connections you have to the issue
- \* Be prepared for the MP to ask you:  
**“What would you like from me? What role can I play?”**
- \* **Obtain a commitment** from your MP

# After the meeting

- \* Write a **thank-you note**, reminding your MP of follow up commitments that were made on both sides
- \* Conclude letter by asking to be informed of any **parliamentary activity** of interest to the campaign
- \* Send a **brief email to your CNCA representative organisation** after the meeting, informing us about the meeting



# Use of local media

- \* Write an **op-ed** or **letter to the editor** about the meeting with your MP
- \* Send a **press release** to local newspaper, radio and television about your meeting