

3-14-2017

# Open Letter to the Prime Minister of Canada: Signed by Eighty-Six Professors Calling For Independent Investigation of Allegations Against Mining Companies

Shin Imai

*Osgoode Hall Law School of York University, simai@osgoode.yorku.ca*

Follow this and additional works at: [http://digitalcommons.osgoode.yorku.ca/public\\_writing](http://digitalcommons.osgoode.yorku.ca/public_writing)



Part of the [Law Commons](#)

---

## Recommended Citation

Imai, Shin, "Open Letter to the Prime Minister of Canada: Signed by Eighty-Six Professors Calling For Independent Investigation of Allegations Against Mining Companies" (2017). *News, Editorials, and Commentaries*. 137.

[http://digitalcommons.osgoode.yorku.ca/public\\_writing/137](http://digitalcommons.osgoode.yorku.ca/public_writing/137)

This Article is brought to you for free and open access by the Faculty Scholarship at Osgoode Digital Commons. It has been accepted for inclusion in News, Editorials, and Commentaries by an authorized administrator of Osgoode Digital Commons.

March 14, 2017

The Right Honourable Justin Trudeau  
Prime Minister of Canada  
Office of the Prime Minister  
80 Wellington Street  
Ottawa, ON K1A 0A2

Dear Prime Minister Trudeau,

We, the undersigned professors, call on the Canadian government to enact legislation to establish a credible and effective independent ombudsperson to investigate and hear complaints about Canadian extractive companies operating abroad. The Liberal party made this commitment during the election campaign.

There is now a proposal before your government to bring in legislation that would give an ombudsperson powers similar to other bodies, such as the Privacy Commissioner and the Information Commissioner. The proposed ombudsperson would have the power to: investigate allegations of human rights harm by Canadian extractive companies; recommend conditioning government support on corporate respect for human rights; and to recommend remedies for victims of such harm. It would also have the power to monitor subsequent corporate conduct and follow up on compliance with such remedies.

Importantly, the proposed mechanism would meet the requirements of the United Nations Guiding Principles on Business and Human Rights for non-judicial grievance mechanisms. It would comply with the principles of legitimacy, accessibility, predictability, equitability, transparency, rights-compatibility and being a source of continuous learning.

Canada is home to 75% of the world's largest mining and exploration companies as well as many medium to large-sized oil & gas companies. Many of these companies operate in the developing world. In 2009 a report, commissioned by the Prospectors and Developers Association of Canada, found that of 171 high profile incidents involving mining companies over the last decade, 34 per cent of the implicated companies were Canadian. These incidents involved conflict with local communities, environmental and human rights abuses, as well as unethical behaviour. The report also noted that Canadian companies were involved in four times as many incidents as their closest peers in Australia and the UK. A 2016 report of the Justice and Corporate Accountability Project at Osgoode Hall Law School documented 100 incidents of violence associated with Canadian extractive companies operating in Latin America between 2000 and 2015.

Canada's Enhanced CSR Strategy signals a recognition of these problems. The ombudsperson legislation is the next logical step, and an essential one in addressing extractive company conduct abroad. The creation of an ombudsperson must be undertaken together with reforms to strengthen Canada's OECD National Contact Point, which are long overdue. UN treaty bodies, as well as the Inter-American Commission on Human Rights, have all called on your government to regulate Canadian extractive companies operating abroad. Other states have recognized the need to 'step up' and Canada is lagging behind. Just last week, the French Parliament voted to require large French companies to publish 'due diligence' plans that

demonstrate the steps they are taking to prevent human rights abuses in their operations and supply chains.

We applaud your government's commitment to the international protection and promotion of human rights. Enacting the proposed ombudsperson legislation would be a significant first step toward ensuring that neither Canadian extractive companies nor the Canadian economy profit from human rights abuses and other harms committed in other countries.

Signed:

Penelope Simons  
Associate Professor  
Faculty of Law/Faculté de droit  
Common Law Section/Section de common law  
University of Ottawa/Université d'Ottawa  
psimons@uottawa.ca

Shin Imai  
Associate Professor  
Osgoode Hall Law School  
York University  
simai@osgoode.yorku.ca

Charis Kamphuis  
Assistant Professor  
Faculty of Law  
Thompson Rivers University  
ckamphuis@tru.ca

Richard Janda  
Associate Professor  
Faculty of Law and Associate Member of the McGill School of Environment  
McGill University

Audrey Macklin  
Director, Centre for Criminology and Sociolegal Studies  
Chair in Human Rights Law  
University of Toronto

Sara Seck  
Associate Professor  
Western Law  
University of Western Ontario

Chris Tollefson  
Professor  
Faculty of Law  
University of Victoria

Jennie Abell  
Professor  
Faculty of Law/Faculté de droit  
Common Law Section/Section de common law  
University of Ottawa/Université d'Ottawa

Sharry Aiken  
Associate Professor  
Faculty of Law  
Queen's University

Nigel Banks  
Professor and Chair of Natural Resources Law  
Faculty of Law  
University of Calgary  
Margaret E. Beare  
Professor Law and Sociology  
York University

Adelle Blackett  
Professor of Law & Canada Research Chair in Transnational Labour Law and Development  
Professeure de droit titulaire de la Chaire de recherche du Canada en Droit transnational du travail et développement  
Faculté de droit/Faculty of Law  
Université McGill University

Angela Cameron  
Associate Professor  
Shirley Greenberg Professor of Women in the Legal Profession  
Faculty of Law/Faculté de droit  
Common Law Section/Section de common law  
University of Ottawa/Université d'Ottawa

Bonnie Campbell  
Professor  
Faculty of Political Science and Law  
Université du Québec à Montréal

Eduardo Canel  
Associate Professor  
Director, Graduate Program in Development Studies  
Department of Social Science  
Faculty of Liberal Arts and Professional Studies  
York University

Vincent Caron  
Professeur  
Section de droit civil / Civil Law Section  
Faculté de droit / Faculty of Law  
Université d'Ottawa / University of Ottawa

Nathalie Chalifour  
Associate Professor  
Centre for Environmental Law and Global Sustainability  
Faculty of Law/Faculté de droit  
Common Law Section/Section de common law  
University of Ottawa/Université d'Ottawa

Lynda Collins  
Centre for Environmental Law & Global Sustainability  
Faculty of Law/Faculté de droit  
Common Law Section/Section de common law  
University of Ottawa/Université d'Ottawa

Deborah Curran  
Assistant Professor, Faculty of Law and School of Environmental Studies  
Acting Executive Director, Environmental Law Centre  
University of Victoria

Aaron A. Dhir  
Associate Professor  
Osgoode Hall Law School  
York University

Meinhard Doelle  
Professor of Law & Associate Dean, Research  
Schulich School of Law  
Dalhousie University

Patricia Doyle Bedwell  
Associate Professor  
Indigenous Studies  
College of Continuing Education  
Dalhousie University

Peter R Elson  
Adjunct Assistant Professor  
School of Public Administration  
University of Victoria  
and  
Senior Research Fellow  
Institute for Community Prosperity  
Mount Royal University

Gail Fraser  
Associate Professor  
Faculty of Environmental Studies  
York University

Isabel Grant  
Professor

Allard School of Law  
University of British Columbia

Julia Grignon  
Professeure adjointe  
Codirectrice de la Clinique de droit international pénal et humanitaire  
Codirectrice du Centre international de recherche sur l'Afrique et le Moyen Orient  
Université Laval

Ricardo Grinspun  
Associate Professor  
Department of Economics  
Fellow, Centre for Research on Latin America and the Caribbean (CERLAC)  
Coordinator, International Development Studies Program  
York University

Vanessa Gruben  
Associate Professor  
Faculty of Law/Faculté de droit  
Common Law Section/Section de common law  
University of Ottawa/Université d'Ottawa

Kregg Hetherington  
Associate Professor  
Department of Sociology and Anthropology  
Concordia University

Allan C. Hutchinson  
Distinguished Research Professor  
Osgoode Hall Law School  
York University

Martha Jackman  
Professor  
Faculté de droit/Faculty of Law  
Section de common law/ Common Law Section  
Université d'Ottawa/University of Ottawa

Rebecca Johnson  
Professor  
Faculty of Law  
University of Victoria

F. Tim Knight  
Associate Librarian  
Osgoode Hall Law School  
York University

Freya Kodar  
Associate Professor

Faculty of Law  
University of Victoria

Fannie Lafontaine  
Professeure titulaire  
Faculté de droit  
Université Laval

François J Larocque  
Associate Professor  
Doyen par intérim | Interim Dean  
Faculté de droit/Faculty of Law  
Section de common law/ Common Law Section  
Université d'Ottawa/University of Ottawa

Louis Lefebvre  
Professor of Economics and Graduate Program for  
Social and Political Thought (emeritus)  
York University

Fabiana Li  
Associate Professor  
Department of Anthropology  
University of Manitoba

Carol Liao  
Assistant Professor  
Faculty of Law  
University of Victoria

Jamie Liew  
Assistant Professor  
Faculty of Law/Faculté de droit  
Common Law Section/Section de common law  
University of Ottawa/Université d'Ottawa

Katherine Lippel  
Chaire de recherche du Canada en droit de la santé et de la sécurité du travail/Canada  
Research Chair on Occupational Health and Safety Law  
Faculté de droit / Faculty of Law  
Section droit civil/ Civil Law Section  
Université d'Ottawa/University of Ottawa

Mary Liston  
Assistant Professor  
Allard School of Law  
University of British Columbia

Jason MacLean  
Assistant Professor

Bora Laskin Faculty of Law  
Lakehead University

Constance MacIntosh  
Associate Professor  
Schulich School of Law  
Dalhousie University

Heather McLeod-Kilmurray  
Associate Professor  
Centre for Environmental Law and Global Sustainability  
Faculty of Law/Faculté de droit  
Common Law Section/Section de common law  
University of Ottawa/Université d'Ottawa

Kent McNeil  
Emeritus Professor  
Osgoode Hall Law School  
York University

Johnny Mack  
Assistant Professor  
Allard School of Law & First Nations and Indigenous Studies  
University of British Columbia

Ravi Malhotra  
Associate Professor/Professeur Agrégé  
Faculty of Law/Faculté de Droit  
Common Law Section/Section de Common Law  
University of Ottawa/Université d'Ottawa

Naiomi W. Metallic  
Chancellor's Chair in Aboriginal Law and Policy  
Assistant Professor  
Schulich School of Law  
Dalhousie University

Nick E. Milanovic  
Adjunct Research Professor  
Department of Law and Legal Studies  
Carleton University

Sarah Morales  
Professeure adjointe /Assistant Professor  
Faculté de droit/Faculty of Law  
Section de common law / Common Law Section  
Université d'Ottawa/University of Ottawa

Mary Jane Mossman  
Professor of Law



Osgoode Hall Law School  
York University

Matthew Murphy  
Assistant Professor of Sustainability & Strategy  
Gustavson School of Business  
University of Victoria

Catherine Nolin  
Associate Professor and Chair  
Geography  
University of Northern British Columbia

Obiora Chinedu Okafor  
Professor & York Research Chair in International and Transnational Legal Studies  
Osgoode Hall Law School  
York University

Peter Oliver  
Professor  
Faculté de droit/Faculty of Law  
Section de common law/ Common Law Section  
Université d'Ottawa/University of Ottawa

Philip Oxhorn  
Professor of Political Science  
Department of Political Science  
McGill University

Palma Paciocco  
Assistant Professor  
Osgoode Hall Law School  
York University

Pamela D. Palmater  
Associate Professor and Chair in Indigenous Governance  
Ryerson University

Mona Paré  
Professeure agrégée / Associate Professor  
Faculté de droit/Faculty of Law  
Section de droit civil/Civil Law Section  
Université d'Ottawa / University of Ottawa

Marina Pavlovic  
Assistant Professor  
Faculty of Law/Faculté de droit  
Common Law Section/Section de common law  
University of Ottawa/Université d'Ottawa

Astrid V. Pérez Piñán  
Assistant Professor  
School of Public Administration  
Faculty of Social and Human Development  
University of Victoria

Stephen D. Rader  
Professor of Chemistry  
Department of Chemistry  
University of Northern British Columbia

Darryl Robinson  
Associate Professor  
Faculty of Law  
Queen's University

David Robitaille  
Professeur agrégé/Associate Professor  
Faculté de droit/Faculty of Law  
Section de droit civil/Civil Law Section  
Université d'Ottawa / University of Ottawa

Rakhi Ruparelia  
Associate Professor  
Faculty of Law/Faculté de droit  
Common Law Section/Section de common law  
University of Ottawa/Université d'Ottawa

Douglas Sanderson  
Associate Professor  
Faculty of Law  
University of Toronto

Teresa Scassa  
Professor and Canada Research Chair in Information Law  
Faculté de droit/Faculty of Law  
Section de common law/ Common Law Section  
Université d'Ottawa/University of Ottawa

Craig Scott  
Professor of Law  
Osgoode Hall Law School  
York University

Dayna Nadine Scott  
Associate Professor  
Osgoode Hall Law School and the Faculty of Environmental Studies,  
York University

Dr. Karena Shaw  
Associate Professor and Director

School of Environmental Studies  
University of Victoria

Alberto R. Salazar V.  
Assistant Professor  
Department of Law and Legal Studies  
Carleton University

Elizabeth Sheehy  
Professor of Law  
Faculty of Law/Faculté de droit  
Common Law Section/Section de common law  
University of Ottawa/Université d'Ottawa

Brian Slattery  
Professor of Law  
Osgoode Hall Law School  
York University

Daviken Studnicki-Gizbert  
Associate Professor  
Department of History  
McGill University

Érick Sullivan  
Directeur adjoint de la Clinique de droit international pénal et humanitaire  
Faculté de droit  
Université Laval

David Szablowski  
Associate Professor  
Law and Society Program  
York University

François Tanguay-Renaud  
Associate Professor  
Director, Nathanson Centre on Transnational Human Rights, Crime and Security  
Osgoode Hall Law School  
York University

Sophie Thériault  
Professeure agrégée / Associate Professor  
Faculté de droit/Faculty of Law  
Section de droit civil/Civil Law Section  
Université d'Ottawa / University of Ottawa

Eric Tucker  
Professor of Law  
Osgoode Hall Law School  
York University

Gus Van Harten  
Professor  
Osgoode Hall Law School  
York University

David Vaver, CM  
Professor of Intellectual Property Law  
Osgoode Hall Law School  
York University

Joao Velloso  
Professeur adjoint / Assistant Professor  
Faculté de droit | Faculty of Law  
Section de common law | Common Law  
Université d'Ottawa | University of Ottawa

Cynthia Williams  
Osler Chair in Business Law  
Osgoode Hall Law School  
York University

David Wiseman  
Associate Professor  
Faculty of Law/Faculté de droit  
Common Law Section/Section de common law  
University of Ottawa/Université d'Ottawa

Stepan Wood  
Professor and York Research Chair in Environmental Law and Justice  
Osgoode Hall Law School  
York University

Anna Zalik  
Associate Professor  
Faculty of Environmental Studies  
York University