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**Desperately Seeking Sanction:
Canadian Extractive Companies and their Public Partners**

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In February 2009, Liberal Member of Parliament, John McKay, tabled ground-breaking legislation in the Canadian House of Commons. His private member's bill, *An Act respecting Corporate Accountability for the Activities of Mining, Oil or Gas in Developing Countries*,² took centre stage in a national debate concerning the Canadian overseas extractive sector. Bill C-300 sought to establish accountability mechanisms for several federal government agencies that provide Canadian extractive companies with political and financial support. The bill created a set of eligibility criteria for the agencies' corporate clients and established a complaints mechanism regarding extractive corporations' overseas operations.

The legislation built on several parliamentary and government processes that recommended the adoption of enhanced accountability measures regarding the provision of public support to Canada's overseas extractive industry. Bill C-300 enjoyed the support of civil society organizations, academics and foreign government officials. It was opposed by industry, Bay Street and senior civil servants.³ Extractive companies, who

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² <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=3658424&Language=e&Mode=1>

³ See Parliamentary testimony on Bill C-300:

Anthony Andrews, Executive Director, Prospectors and Developers Association of Canada

<http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=4231494&Language=E&Mode=1&Parl=41&Ses=1>

Shirley-Ann George, Senior Vice-President, Policy, Canadian Chamber of Commerce

<http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=4547693&Language=E&Mode=1&Parl=41&Ses=1>

James Peterson, Counsel, Fasken Martineau DuMoulin

<http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=4266713&Language=E&Mode=1&Parl=41&Ses=1>

Grant Manuge, Director General, Trade Commissioner Service, Operations, Department of Foreign Affairs and International Trade

<http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=4281177&Language=E&Mode=1&Parl=41&Ses=1>

characterized the bill as ‘punitive,’ warned that they would abandon Canada if the legislation were passed.

The bill was defeated in the House of Commons by a slim margin, following a tremendous assault on Parliament Hill by mining sector lobbyists.⁴ Despite its defeat, the bill provided an effective vehicle to raise awareness among decision-makers and the public regarding the human rights abuse associated with Canada’s overseas corporate operations, and the need for enhanced government and corporate accountability measures in this country.

Civil society organizations, particularly the members of the Canadian Network on Corporate Accountability (CNCA),⁵ led efforts in support of the bill. Work on Bill C-300 consolidated and strengthened the network, and facilitated the development of important alliances, including international solidarity links.

Government accountability

The Canadian government plays an increasingly critical role in the promotion of the Canadian overseas extractive industry.⁶ However, Canada lacks effective accountability mechanisms to ensure that government support for the private sector is both transparent and consistent with Canada’s international obligations. Canadian government agencies provide political and financial backing to companies whose operations are associated with conflict, environmental degradation and human rights abuse. Bill C-300 sought to prevent government complicity in corporate malfeasance. The broadly-endorsed UN ‘Protect, Respect and Remedy’ framework on business and human rights calls on governments to adopt such accountability mechanisms in the fulfillment of the legally-mandated state duty to protect human rights.

Bill C-300 sought to regulate Export Development Canada, the Canada Pension Plan, Canadian embassies and the Canadian Trade Commissioner. Export Development Canada (EDC) is a Crown corporation that facilitates Canadian exports and overseas investments by providing companies with financing and insurance. In 2010, the corporation facilitated Canadian business in the extractive sector worth close to \$19 billion.⁷ EDC provides support to a number of extractive companies whose operations are associated with allegations of environmental degradation and human rights abuse.⁸

⁴ See, for example: <http://www.theglobeandmail.com/news/politics/mining-industry-lobbied-nine-of-24-mps-who-helped-kill-ethics-bill/article1795614/>

⁵ <http://www.cnca-rcrce.ca>

⁶ Most recently, see Prime Minister Harper’s statement at the 2012 Summit of the Americas: <http://www.pm.gc.ca/eng/media.asp?category=3&featureId=6&pageId=26&id=4742>

⁷ <http://www19.edc.ca/publications/2011/2010ar/english/3-2-1.shtml>

⁸ Examples in Latin American include Barrick and Goldcorp’s Pueblo Viejo mine in the Dominican Republic, Talisman’s operations in the Peruvian Amazon and Kinross’s Morro do Ouro mine in Brazil. See: <http://amazonwatch.org/work/talisman>

<http://www.minesandcommunities.org/article.php?a=10462&l=1>

<http://www.minesandcommunities.org/article.php?a=9921>

The Canada Pension Plan is a publicly-administered fund worth over \$152 billion.⁹ The Plan includes significant equity holdings in publicly-traded Canadian extractive companies that operate in developing countries, including Latin America and the Caribbean. The pension holds equity worth hundreds of millions of dollars in companies whose operations have been impugned by local populations and civil society organizations.¹⁰

The Canadian Trade Commissioner facilitates access to foreign markets for Canadian extractive companies, while Canadian embassies provide valuable political backing. For example, Canadian mining junior Manhattan Minerals obtained its interest in the controversial Tambogrande mine concession shortly after participating in a Team Canada trade mission to Peru.¹¹ According to a representative of Canadian company Corriente Resources, whose operations in Ecuador were associated with violent conflict and allegations of human rights abuse,¹² "...the Canadian Embassy in Ecuador has worked tirelessly to affect (sic) change in the mining policy – including facilitating high-level meetings between Canadian mining companies and President Rafael Correa..."¹³ Corriente Resources participated in one such meeting, during which the Canadian ambassador expressed the government of Canada's concerns regarding changes in the Ecuadorian regulatory framework.¹⁴

A proposed amendment to Bill C-300 would have expanded its coverage to include the Canadian International Development Agency (CIDA). Should it have passed, the amended bill would have applied to controversial new CIDA funding for partnerships between non-governmental organizations and mining companies in developing countries.¹⁵

http://www.prmg.mpf.gov.br/patosdeminas/noticias/@@noticia_prm_view?noticia=/internet/imprensa/noticias/indios-e-minorias/mpf-quer-impedir-votacao-da-licenca-de-operacao-de-projeto-minerario-em-paracatu-mg

⁹ As at December 31, 2011.

¹⁰ For example, as at March 31, 2011, the CPP held \$219 million in Barrick Gold, \$177 million in Goldcorp, \$71 million in Talisman and \$72 million in Kinross.

¹¹ Natural Resources Canada, "Canada's Natural Resources Minister Leads Trade and Investment Mission to Latin America," news release, November 5, 1998.

Stéphanie Rousseau and François Meloche, *Gold and Land: Democratic Development at Stake. Report of the Observation Mission of the Tambogrande Municipal Consultation Process in Peru*, Rights and Democracy (June 2002).

<http://www.dd-rd.ca/site/publications/index.php?id=1345&subsection=catalogue>

¹² See, for example:

Brett Poplewell, "Bullets fly over Canadian-owned mine: Proposed open pit has two neighbouring towns on 'brink of civil war'," *The Toronto Star*, November 23, 2009.

<http://www.thestar.com/news/world/article/729363>

¹³ Ian Harris, Senior VP of Ecuacorriente and General Manager of Ecuador Operations for Corriente Resources Inc. *Ecuador's Mineral Crossroads: Canada's Commitment?* FOCALPoint. June 2008.

http://www.focal.ca/pdf/focalpoint_june2008.pdf

See also: <http://www.cbc.ca/money/story/2008/04/25/ecuadormining.html>

¹⁴ CBC News, "Ecuadorian president reassures mining firms," April 25, 2008.

<http://www.cbc.ca/money/story/2008/04/25/ecuadormining.html>

¹⁵ See: <http://www.acdi-cida.gc.ca/acdi-cida/ACDI-CIDA.nsf/eng/CAR-929105317-KGD>

The legislation sought to establish a set of binding standards for those extractive companies that receive support from the Department of Foreign Affairs and International Trade (through Canadian embassies and the Trade Commissioner), EDC and the CPP.¹⁶ Companies would have been required to demonstrate compliance with these standards in order to receive government support. Non-compliance would have resulted in the forfeiture of government support. The standards established under Bill C-300 were based on the World Bank Performance Standards,¹⁷ the Voluntary Principles on Security and Human Rights¹⁸ and international human rights law.

The bill also sought to create a public complaints mechanism regarding extractive companies' overseas operations, open to both Canadians and non-Canadians. All complaints made in good faith would be investigated by the ministers of foreign affairs and international trade. The ministers would assess a company's behaviour as against the standards described above and issue public findings regarding compliance. In cases where companies were found to be in contravention of the standards established under the bill, government agencies would be obliged to withdraw their support. Future support would be conditional on companies demonstrating compliance.

Origins of the bill

The Canadian extractive sector's impressive global reach is matched by an equally awe-inspiring stream of accusations,¹⁹ non-judicial complaints²⁰ and lawsuits²¹ regarding its operations. Local communities complain that Canadian extractive companies' operations cause environmental destruction,²² social disruption and human rights violations.²³

¹⁶ As originally drafted, C-300 conflicted with provisions of the *Canada Pension Plan Investment Board Act*. A proposed amendment would have avoided this conflict by requiring that CPPIB investment managers "take into account the results of examinations and reviews undertaken" under Bill C-300. In other words, these managers would not have been required to divest from extractive companies that are noncompliant with the standards established under C-300, as originally proposed.

¹⁷ http://www1.ifc.org/wps/wcm/connect/115482804a0255db96fbffd1a5d13d27/PS_English_2012_Full-Documents.pdf?MOD=AJPERES

¹⁸ http://www.voluntaryprinciples.org/files/voluntary_principles_english.pdf

¹⁹ See, for example: <http://www.theglobeandmail.com/report-on-business/rob-magazine/barrick-golds-tanzanian-headache/article2183592/>

²⁰ See, for example: <http://www.miningwatch.ca/news/centerra-gold-inc-flouting-mongolia-s-environmental-protection-laws-organizations-file>

²¹ See, for example:

<http://olca.cl/articulo/nota.php?id=101192>

http://www.cci.j.ca/media/news-releases/2012/index.php?DOC_INST=3

<http://www.ramirezversuscoppermesa.com>

<http://www.chocversushudbay.com>

²² See, for example: Dr. Adam Jarvis and Dr. Jaime Amezaga, *Technical review of mine closure plan and mine closure implementation at Minerales Entres Mares San Martin mine, Honduras. A report prepared for Caritas (Honduras) / CAFOD International* (June 2009).

<http://www.cafod.org.uk/resources/policy/private-sector/extractive-industries2/panels/resources-to-download/technical-review-of-mine-closure-at-san-martin-spanish>

Extractive operations generate conflict with and among local communities.²⁴ Those who oppose mining, oil and gas activity are often harassed,²⁵ raped,²⁶ illegally detained²⁷ and murdered.²⁸

Canadian civil society organizations (CSOs) are overwhelmed with requests from partner and allied organizations in the global South regarding the adverse impacts caused by Canadian extractive companies and the associated impunity. Canadian CSOs have sought to support local communities' efforts in defence of their rights by providing partners with information and analysis regarding the Canadian extractive sector, and by raising awareness regarding overseas community struggles in Canada. For several years, Canadian civil society has also worked to promote policy and legal reform in Canada regarding the overseas operations of our extractive companies. These organizations seek enhanced transparency and accountability regarding both government and corporate operations, including access by non-Canadians to the Canadian judiciary.²⁹

In 2005, the Parliamentary Subcommittee on Human Rights and International Development held hearings on the overseas Canadian mining industry that included the testimony of Canadian CSOs and their international partners. At the conclusion of the hearings, the Foreign Affairs and International Trade Committee produced an all-party report with a series of policy and law reform recommendations for the Canadian government. In 2006, the federal government responded to one of the Committee's recommendations and convened a multi-stakeholder process to address government policy and programming in this area.

The National Roundtables on Corporate Social Responsibility and the Canadian Extractive Industry in Developing Countries were led by a multi-stakeholder Advisory Group that included representatives of industry associations, individual companies, civil society, academia, and an ethical investment organization. Government and Advisory Group members participated in public consultations and closed door expert sessions,

Antonio Valencia, "Dirección General de Aguas inicia trámite para sancionar a Pascua Lama," *La Nación*, 15 de enero de 2010.

²³ See, for example: Frente de Defensa San Miguelense, *Specific Instance Complaint Submitted to the Canadian National Contact Point Pursuant to the OECD Guidelines for Multinational Enterprises Concerning: The Operations of Goldcorp Inc. at the Marlin Mine in the Indigenous Community of San Miguel Ixtahuacán, Guatemala* (December 9, 2009).

http://www.ciel.org/Publications/FREDEMI_SpecificInstanceComplaint_December%202009.pdf

²⁴ See, for example: *supra* note 12.

²⁵ See, for example: *supra* note 23.

²⁶ See, for example: <http://www.chocversushudbay.com/about#Summary%20of%20Caal>

²⁷ See, for example, *supra* note 12.

²⁸ The Canadian Press, "GG condemns killing of Mining Activist," December 9, 2009.

<http://www.cbc.ca/money/story/2009/12/09/jean-condemns-mexican-activist-killing.html>

Lisa Skeen. "Salvadoran Anti-Mining Activists Risk their Lives by Taking on 'Free Trade,'" *North American Congress on Latin America Online News*, February 1, 2010.

<https://nacla.org/node/6389>

Amnesty International, "Guatemala: Killings must not go unpunished," news release, October 13, 2009.

http://www.amnesty.ca/resource_centre/news/view.php?load=arcview&article=4928&c=Resource+Centre+News

²⁹ <http://cnca-rcrce.ca/about-us/mission>

across the country. Following these discussions, members of the Advisory Group worked for several months to develop policy recommendations for the Government of Canada. The Group sought consensus, convinced that the presentation of divergent viewpoints would justify government inaction. Concessions were made on all sides and in March 2007, the Advisory Group released a consensus report³⁰ identifying a proposal for policy reform that would enhance the accountability of Canadian extractive companies that operate in developing countries.

The report's centrepiece is the Canadian Corporate Social Responsibility (CSR) Framework. This Framework includes standards and public reporting requirements for extractive companies. It also features a unique complaint mechanism for the extractive industries. This ombudsman was designed to operate at arm's length to government and would undertake independent investigations regarding the overseas operations of Canadian extractive companies. The office would accept complaints from both Canadians and non-Canadians, and would publicly release its findings. While not grounded in binding legislation, the Framework was intended to promote more responsible corporate behaviour through the dissemination of credible, independent information regarding corporate operations and by linking the provision of government support to corporate compliance with performance standards.

In March 2009, two years following the release of the Advisory Group report, the Conservative government issued its long-awaited response. The government's policy, *Building the Canadian Advantage: A Corporate Social Responsibility (CSR) Strategy for the Canadian International Extractive Sector*³¹ was hardly worth the lengthy wait. It disregards the Advisory Group recommendations, shifting the focus of accountability from Canada to the countries where Canadian companies invest. Mechanisms that were designed by the Advisory Group to encourage corporate compliance with performance standards are absent from the government strategy. Eligibility for government support is no longer linked to these standards. The office of the ombudsman has been stripped of its independence and power. The position is now government-appointed and can only undertake investigations with the explicit sanction of industry.

Faced with this disappointing outcome, civil society sought to promote a legislated mechanism to enhance accountability in the extractive sector. While C-300 was limited to regulating government support for extractive companies, it was seen by civil society as a strategic starting point for more comprehensive reforms, including the eventual adoption of extraterritorial provisions that directly regulate Canadian companies' overseas operations.

³⁰ National Roundtables on Corporate Social Responsibility (CSR) and the Canadian Extractive Industry in Developing Countries. Advisory Group Report. March 29, 2007.

http://www.mining.ca/www/media_lib/MAC_Documents/Publications/CSRENG.pdf

³¹ <http://www.international.gc.ca/trade-agreements-accords-commerciaux/ds/csr-strategy-rse-strategie.aspx?view=d>

The role of civil society

Civil society organizations formed the Canadian Network on Corporate Accountability (CNCA) in 2006, at the beginning of the national roundtable process, to promote government and corporate accountability in Canada. The network unites over twenty non-governmental organizations, unions and faith-based social justice organizations. The CNCA provides a forum for collaborative research, advocacy and public education work regarding the overseas activities of Canadian extractive companies. The CNCA was the civil society liaison to the national roundtable process and its members engaged with all political parties to encourage adoption of the consensus roundtable report.

The CNCA also led civil society efforts in support of Bill C-300. CNCA members testified on the legislation before the Parliamentary Standing Committee on Foreign Affairs and International Development (SCFAID) and briefed Members of Parliament on the bill. The CNCA provided expert advice regarding proposed amendments to the bill and briefed the press on the legislation. Several network organizations, such as Development and Peace and Amnesty International, engaged with their members on the legislation, disseminating information and analysis on the bill, encouraging the Canadian public to engage with Parliament on the legislation.

Many members of the CNCA have long-standing collaborative relationships with partner and allied organizations in the global South, including Latin America.³² These relationships provide Canadian civil society organizations with accurate, timely information about events on the ground, local dynamics and community demands. Collaboration with international partners informs the policy work of CNCA members, and in many cases, results in the development of shared policy analysis and proposals. By disseminating information in Canada received from international partners, the CNCA has sought to raise awareness among the Canadian public and decision-makers regarding the need for policy and law reform in this country. The CNCA's collaborative relationships with international organizations were critical during both the Bill C-300 process and the policy debates that preceded it.

International civil society organizations who support communities affected by Canadian companies followed Bill C-300's progression through the House of Commons. Some sent letters of support to Canada, urging this country's decision-makers to assume responsibility for the damaging impacts of Canada's overseas extractive industry. For example, close to forty Latin American human rights organizations wrote to Canadian

³² An important partner in Latin America is the Latin American Observatory of Mining Conflicts (OCMAL). This network was formed in 2006 and includes roughly forty organizations from across the region. The network's central objective is to promote greater social and environmental justice in areas impacted by the industry. OCMAL seeks respect for the rights of those communities who are affected or threatened by mining activity, including their chosen paths of development.
<http://www.conflictosmineros.net/>

Parliamentarians, urging them to vote in support of the bill.³³ Others testified on the legislation, as described below.

Non-Canadians speak to Bill C-300

The Parliamentary hearings on Bill C-300 were considerably longer than usual,³⁴ providing members with the opportunity to hear from a broad range of witnesses, including a number of non-Canadians. Several foreign academics shared the results of their work documenting the impacts of Canadian extractive companies on the ground. For example, researchers at Harvard and New York universities testified concerning allegations of gang rapes, physical abuse and killings by security personnel hired by Barrick Gold at its mine in Papua New Guinea.³⁵ The researchers explained that despite long-standing allegations of abuse, no independent investigations have been undertaken.

Representatives of international human rights organizations also shared their perspectives on the impact of the Canadian extractive sector and the Canadian government's responsibility to respond. Chris Albin-Lackey, senior researcher at Human Rights Watch, had this to say about Barrick's operations in Papua New Guinea:

Despite some important measures taken by Barrick, our research shows that incidents of serious abuse are still slipping through the cracks and that those cracks may be very wide. Barrick itself has not been transparent about the specific efforts it is making. The company has thus far not been able to provide us with specific information about the measures it has put in place to control and respond to abuse and has not allowed us to meet with the company officials who are most familiar with these issues.^{36 37}

The then head of Amnesty International's Business and Human Rights team, Shanta Martin, reported that a very high proportion of cases received by her organization concerning allegations of human rights abuse involve Canadian companies. Ms. Martin urged the Canadian government to ensure that its role as a promoter of the mining sector be "consistent with Canada's international human rights obligations, including promoting

³³ http://www.miningwatch.ca/sites/miningwatch.ca/files/Carta_de_respaldo_ley_C-300.pdf (translation: <http://www.miningwatch.ca/article/letter-39-latin-american-human-rights-organizations-supporting-bill-c-300>)

³⁴ Due to prorogation, the Committee was afforded more than one session of hearings.
³⁵

<http://www.parl.gc.ca/HousePublications/Publication.aspx?DocID=4148257&Language=E&Mode=1&Parl=41&Ses=1>

<http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=4588646&Language=E&Mode=1&Parl=41&Ses=1>

³⁶ <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=4588646&Language=E&Mode=1&Parl=41&Ses=1#Int-3203505>

³⁷ Barrick response to Human Rights Watch report:

http://www.barrick.com/Theme/Barrick/files/docs_pressrelease/2011/Response-to-Human-Rights-Watch-Report.pdf

respect for human rights by Canadian companies and holding them accountable if they do not.”³⁸

Government officials from foreign countries, including several that host significant Canadian extractive investment, also weighed in. In Canadian media interviews, Mr. Bernard Membe, Tanzanian Minister of Foreign Affairs and International Cooperation, expressed strong support for the bill.³⁹ U.S. Senator Benjamin Cardin also endorsed the legislation, emphasizing that “voluntary standards are not enough.”⁴⁰

Romina Picolotti, former Argentinean Minister of the Environment, provided remarkable testimony regarding the Canadian mining industry’s influence in her country:

You're obviously aware of the very large mine investments run by Canadian companies like that of Barrick Gold in Argentina. Barrick Gold is a modern example of a powerful economic giant that unscrupulously manipulates local politics and is skirting environmental and social controls to maximize profit, minimize investment risk, and ignore local cultures and communities to the detriment of the greater global objectives of sustainable development.

As the former environmental secretary, I can personally attest to Barrick's tactics of obstruction to the control and compliance powers of the state. I have seen Barrick's use of forceful propaganda and traffic of influence on public officials and its intense marketing and PR gimmicks with the local communities. I approached Barrick in 2006 as environment secretary to exercise my jurisdictional authority over the San Guillermo Biosphere Reserve, a UNESCO site and national park in the province of San Juan, where Barrick's Veladero mine is located, with the objective of installing contamination-measuring units through the area. Barrick refused to give my team access to the lands in their mining territory and stalled all subsequent efforts to facilitate such entry until weather conditions changed so drastically in the early winter months that my team's work in the area was no longer physically possible.⁴¹

Ms. Picolotti also described the power that the Canadian mining industry wields over the executive branch of her country’s government:

In 2008, the Congress unanimously passed a glacier protection law. The new glacier law would in fact prohibit mining on, under, or in glacier parameters, something that probably sounds quite reasonable to Canadians, as you come

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<http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=4547693&Language=E&Mode=1&Parl=41&Ses=1#Int-3407887>

³⁹ http://www.johnmckaymp.on.ca/newshow.asp?int_id=80617

⁴⁰ Letter from Senator Benjamin L. Cardin, Chairman, U.S. Commission on Security and Cooperation in Europe to the Honourable John McKay. October 26, 2010.

⁴¹

<http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=4255338&Language=E&Mode=1&Parl=41&Ses=1>

from one of the most glacier-rich areas of the world. Well, so do we.

Canadian companies operating in Argentina did not want a glacier protection law to limit their mining prospects and subsequently pressured the President into vetoing the law. If the President would not veto the law, Barrick would work to block other financial bills that were critical to stabilizing the Argentine economy during the global financial crisis. The President capitulated to Barrick's pressure and vetoed the bill, which has become known euphemistically as the Barrick veto.⁴²

Finally, Ms. Picolotti described the personal costs associated with her efforts to regulate the mining sector:

As environment secretary of Argentina, I fought hard for the promotion of sustainable development and for accountability. I confronted many corporate sectors, engaging them in costly but responsible cleanup. Many did not like this intervention, but ultimately they understood that their responsibility to respect human rights and environmental standards was critical to their own survival and sustainability.

The mining sector, I'm sorry to say, responded quite differently from the rest. They were more resistant, more aggressive, and more dangerous. My closest staff and I were personally and physically threatened following our mining intervention. My children were frightened, my office was wire-tapped, my staff was bought, and the public officials that once controlled Barrick for me became paid employees of Barrick Gold. My mission and our mission as a nation to control mining was jeopardized. Ultimately, I was forced to resign due to insurmountable pressure from companies like Barrick Gold, which ultimately get their way when our institutions fail to control their performance and compliance.⁴³

New challenges

Bill C-300 was tabled in the context of a minority Conservative government. Throughout the legislative process, the bill was supported by both the Bloc Québécois and the New Democratic Party (NDP). The bill also enjoyed the support of a majority of Liberal MPs, who formed the Official Opposition at the time. However, despite its Liberal origins, the party's leader, Michael Ignatieff, did not support the bill. He and a number of senior caucus members failed to appear in the House of Commons for the final vote at Third Reading. Several Bloc and NDP MPs, who represented ridings rich in mineral resources, were also absent from the vote. These members reportedly believed that the bill would apply in their ridings. The Conservatives defeated the bill by just six votes.

⁴² *Ibid.*

⁴³ *Ibid.*

Despite its defeat, Bill C-300 changed the corporate accountability landscape in Canada. Civil society organizations used the bill to generate political space and capital, raising the issue's public profile. Bill C-300 provided a powerful opportunity for Canadian civil society organizations to hone their skills and knowledge, and to strengthen collaborative relationships, both in Canada and internationally.

The election of a majority Conservative government in 2011 quashed all hope that similar legislation would be adopted during the current Parliament. Legal gains in this area will require a shift in political power. In the meantime, the organizations that led work on Bill C-300 face new challenges. Several members of the Canadian Network on Corporate Accountability, long time CIDA partners, have lost their funding or suffered significant funding cuts. In the case of Kairos, internal government documents reveal that the organization's work on the extractive sector was viewed unfavourably by government decision-makers during the review of its funding application.⁴⁴ Similar considerations may have played a role in the government's decision to cut funding for other CNCA organizations, such as the Canadian Council for International Co-operation, the Mennonite Central Committee, and Development and Peace. These cuts coincided with the announcement of new CIDA funding for civil society organizations that partner with mining companies in developing countries.

The Mining Association of Canada (MAC) recently blamed Bill C-300 for the "retrenchment of stakeholders into polarized positions," arguing that "[n]ow, leadership and momentum on CSR issues is often happening at the international level and not in Canada."⁴⁵ MAC implies that the proponents of Bill C-300 betrayed the roundtable consensus, causing stakeholders to resume adversarial positions. The members of the CNCA, who advocated in support of Bill C-300, are to be contrasted with more 'constructive' non-governmental organizations who partner with mining companies.

In fact, it was industry that acted in bad faith regarding the roundtable recommendations. Several companies, including Kinross⁴⁶ and Barrick,⁴⁷ both members of the Mining Association of Canada, wrote to the government following the release of the roundtable report to express their concern regarding the establishment of an independent ombudsman empowered to scrutinize their operations. In a submission to the Ministers of Foreign Affairs and International Trade, the Prospectors and Developers Association of Canada (PDAC) argued that the report "reflects an underlying bias against the Canadian mining industry" and cautioned that "the development of a CSR Framework specifically targeted at Canadian mining companies, could disturb the "level playing field" and place

⁴⁴ Lee Berthiaume. Did Kairos defunding come down to mining interests and one hand-written note? Embassy. October 27, 2010.

⁴⁵ http://www.mining.ca/www/media_lib/MAC_Documents/Final%20MAC%20Roundtables%20Report%20December%2021%202011_%20_3_.pdf

⁴⁶ Letter from James Crossland, Senior Vice-President, Government Relations and Corporate Affairs, Kinross Gold Corporation to Ministers Bernier and Emerson. October 15, 2007.

⁴⁷ Letter from Barrick Gold Corporation to Ministers Bernier, Lunn and Emerson. October 11, 2007.

them at a competitive disadvantage.”⁴⁸ Little wonder that the Canadian government was reticent to adopt the roundtable recommendations. The polarization so lamented by MAC is unlikely to abate as long as Canadian companies and government agencies continue to act with impunity.

⁴⁸ PDAC Response to the Federal Government on the CSR Roundtable Advisory Group Report. July 19, 2007. <http://www.pdac.ca/pdac/publications/na/pdf/070725-csr-full-response.pdf>