

The Ecopolitics Podcast 3.5: How Can We Confront the Environmental Challenges Associated with Canadian Mining?

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**Hosts:** *Ryan Katz-Rosene and Peter Andrée*

**Guests:** *Chandu Claver, Teresa Kramarz, and Sheri Meyerhoffer*

**Summary:** *Mining is an essential component to our everyday lives, providing us with the raw materials we need to create a wide variety of products. However, while mining contributes to our technological progress, it comes with an often hidden dark side rife with environmental and human rights abuses. When more than 60% of the world's mining companies are based in Canada, what does this mean for us as everyday ecocitizens? What responsibilities do we have with respect to holding these companies to account for their use and abuse of people and planet? These are some of the questions we drill into today with guests Chandu Claver, International Spokesperson for the Cordillera Peoples' Alliance, Teresa Kramarz, Associate Professor at the University of Toronto, and Sheri Meyerhoffer, Canadian Ombudsperson for Responsible Enterprise (CORE).*

[00:00:00] **Chandu Claver:** I think Canada is in a very good position to actually help out in human rights and other things that are happening abroad, but it's umbilical cord to the mining corporation seems to hold it from doing precisely that.

[00:00:23] **Ryan Katz-Rosene:** Hello and welcome to the Ecopolitics Podcast, mini season three: 'Everyday Ecopolitics.' This is a podcast for university students tackling some of the key questions and challenges in the field of environmental politics today. I'm Ryan Katz-Rosene from the University of Ottawa, and with me here today is my co-host for the show Dr. Peter Andrée from Carleton University. How are you doing today, Peter?

[00:00:50] **Peter Andrée:** I'm doing well, Ryan. I'm looking forward to talking with you today about mining, the environment, and human rights.

[00:00:56] **Ryan Katz-Rosene:** Well, that makes two of us. How can we [00:01:00] confront the environmental and human rights challenges associated with Canadian mining overseas? That's the question we're looking at today.

[00:01:08] **Ryan Katz-Rosene:** The mining of minerals is hugely important in our world, both for providing raw inputs that go into the technologies and goods that are associated with the traditional fossil fuel economy. But more importantly, they provide some of the critical minerals that are needed for a net zero economy, whether that's lithium in car batteries, or the copper and other elements that we need in our cell phones and laptops, so that we can have online meetings rather than flying around to meet one another, as often as we have in the past and so on.

[00:01:46] **Ryan Katz-Rosene:** To be frank, these minerals, at least a certain amount of the mining needed to get them out of the ground, are here to stay even in a post fossil fuel

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economy. But if that's the case, then we have some big issues to address in terms of the environmental and human rights impacts associated with some parts of this industry today. Both in Canada, and especially overseas. Canadian companies play a particularly important role in all of this, and we're going to be talking about that today. As a result, Canadian citizens really need to understand this industry and its associated issues, and the roles that we can play as everyday eco-citizens to set this industry on a more sustainable and just path moving forward.

[00:02:32] **Peter Andréé:** That's all very true, Ryan, and I'm glad you're emphasizing how Canadians fit into this picture.

[00:02:38] **Peter Andréé:** Many Canadians may not know that mining companies based in this country have a disproportionate role in the global mining industry. I've been learning quite a bit about this from my fourth year student Sophie Ehlebracht, who's writing her honors research essay on the question of governing Canadian mining companies overseas.

[00:03:00] **Peter Andréé:** Sophie's research tells me that in 2019, 6 Canadian mining companies were ranked in the top 40 global mining companies by PricewaterhouseCoopers. Including domestic mines, there are 1,290 Canadian mining and exploration companies, again in 2019. With Canadian mining assets valued at a total of \$263 billion dollars U.S.

[00:03:25] **Peter Andréé:** Over half of those companies were located overseas and they accounted for almost \$180 billion U.S dollars (USD) in mining assets. So this is a huge business for Canada, both domestically and overseas. At the same time, there's a lot of controversy surrounding some of those mining companies and their practices, both in Canada and overseas.

[00:03:46] **Peter Andréé:** As you said earlier, we're really going to focus today on the companies that operate outside Canada's borders. Canadian companies are purported to be responsible for a range of human rights and environmental abuses in various countries that they work in. Endangering the health of local communities and destroying local environments in the pursuit of minerals.

[00:04:05] **Peter Andréé:** I could get into some specific examples here, Ryan, including cases where Canadian companies have admitted wrongdoing after being challenged in courts abroad. Instead I think the best way to put a human face on all of this is to introduce the first person I spoke with. Chandu Claver, and share his story with our listeners.

[00:04:24] **Chandu Claver:** My name is Chandu Claver, I belong to the Bontoc and Igorot of the northern Philippines. I was a practicing physician surgeon for 22 years. I'm also a long time advocate and activist for human rights, especially of indigenous rights and on the issues of extractive industries, particularly mining.

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[00:04:46] **Peter Andrée:** So as you've heard, Ryan, Chandu is from an indigenous tribe in the Philippines.

[00:04:51] **Peter Andrée:** He's currently spokesperson for an organization of indigenous peoples from the Northern Philippines called the *Cordillera People's Alliance*. Chandu became an activist on human rights issues related to the work of foreign companies operating in his country because of where he was born and grew up.

[00:05:08] **Chandu Claver:** I was born in the premises of one of the largest copper mines in the world at the time: *Lepanto Consolidated Mining Company*. In the late eighties, it partnered with a Canadian mining corporation, *Ivanhoe Mines*, their operation resulted in the environmental destruction. Foremost of which was the killing of the Eastern portion of the great Abra River, a river that was vital to the survival of farmers and indigenous peoples of the provinces of Abra and Ilocos Sur. Dumping mine waste contaminated the waterway so much with silt and toxic heavy metals that it caused crop destruction, death of farm animals, disease, and starvation.

[00:05:54] **Ryan Katz-Rosene:** My goodness that is a rather disturbing image that Chandu is painting for us here. This is clearly a topic of which Chandu has extensive firsthand knowledge through direct experience with some Canadian mining companies. Can you tell us a bit more about that?

[00:06:14] **Peter Andrée:** Sure. Well, we'll go straight back to Chandu here. He's quick to point out that his direct experiences with *Ivanhoe* is really just the tip of the iceberg.

[00:06:24] **Chandu Claver:** *Ivanhoe* was just one Canadian mining company, there are many others. They operate mostly in indigenous peoples' land, a growing resistance among our people is what we have come to call *development aggression*.

[00:06:38] **Peter Andrée:** Chandu went to talk about how indigenous people in the Philippines have been working to try to end this development aggression. Mostly by trying to pressure their own state to better control foreign mining companies. So over the years, indigenous peoples have put forward petitions, they've held protests, and in some cases even resorted to armed defense of their lands. The response to the Philippine government has mostly been to side with the foreign companies and against indigenous resistance, whether directly through its own armed forces or indirectly by encouraging paramilitary and vigilante forces opposed to the efforts of indigenous peoples protecting their own communities and their lands.

[00:07:18] **Chandu Claver:** *Toronto Ventures Incorporated* using its guards, armed and trained by the Filipino army, to displace local indigenous folks is one extensively documented example.

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[00:07:30] **Peter Andréé:** In fact, Chandu's own family was subjected to this persecution. This is why he and the remnants of his family came to Canada as a political refugee over 10 years ago. Chandu tells that story in this clip, after I asked him if he was ever threatened himself by these paramilitary forces supported by the Philippine state and the name of protecting mining companies.

[00:07:52] **Chandu Claver:** Actually, it was not the paramilitary groups. It was the covert forces of the Philippines state, the military covert units that were doing a lot of extrajudicial killings. On July 31, 2006, they ambushed my family in the middle of a populated area and resulted in the death of my wife and me being seriously hit as well as one of my daughters. That's the attack that the Philippine state conducted on us.

[00:08:39] **Ryan Katz-Rosene:** My goodness, that's just horrific to hear, Peter. It's actually just hard to come to grips with how significantly his life has been affected by this. Mostly, I just appreciate his willingness to share his story with us today. I think he has important things to teach us and our listeners. What did he have to say about what Canadians need to know about how our mining sectors operating overseas based on his personal experiences?

[00:09:10] **Peter Andréé:** Well, I asked him that very question and here is his response.

[00:09:14] **Chandu Claver:** Yeah, it's good you asked me that question because in my years here in Canada, I did notice that the knowledge about what's happening to us overseas it's not something that ordinary Canadians know about.

[00:09:35] **Peter Andréé:** So as an example, Chandu told me a little more about *Ivanhoe*, the company he had mentioned earlier. When the *Cordillera People's Alliance* investigated this company, they learned that one of the top 15 shareholders in the company was none other than the *Ontario Teachers' Pension* fund. Chandu doubted that those teachers knew that their pensions were invested in a company whose actions were resulting in massive fish kills and destroying agricultural land in countries overseas.

[00:10:05] **Ryan Katz-Rosene:** Well, I think that's a fair thing to doubt. I'm not quite sure I even know what my own pension fund is invested in at the University of Ottawa.

[00:10:14] **Ryan Katz-Rosene:** I think what Chandu is pointing out here is that part of the problem is that these pockets of financial capital, like the *Ontario Teachers' Pension* fund, is actively supporting activities overseas that those who technically own the capital don't really know about. I'm curious to know what else did he say about how the system works. When you mentioned earlier, the Philippine government playing a role in supporting the mining companies, what's the role of the Philippine state in all of this?

[00:10:49] **Peter Andréé:** That's a good question, Ryan. In fact, at least some of the blame for what's happening in the Philippines does need to be placed at the hands of its own state,

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which Chandu pointed out is controlled by a small ruling elite of less than 170 families. He pointed out that the Philippine government brought in a very important piece of legislation that has made all of this possible, and that was in 1995: *The Philippine Mining Act*. This piece of legislation was developed in close consultation with international mining bodies.

[00:11:22] **Chandu Claver:** Practically opened up the whole Philippine mining industry to foreign corporate money. As a result, a flood of foreign corporations coming from many countries, but most of whom are registered here in Canada, have actually put in exploration applications and their existing mining operations have even expanded further. Canadian companies, as well as other mining corporations from other countries, are well-protected and encouraged by the ruling class in the Philippines, the ruling class, which controls government policies, institutions, armed forces, and the police. They worked in concert to realize corporate interest and profit, even in the face of people's opposition.

[00:12:13] **Peter André:** I tried to get more clarity from Chandu on the role of this domestic legislation, since it seems to be really critical to the story we're hearing, here's what he said.

[00:12:23] **Chandu Claver:** *The Philippine Mining Act* is so well biased towards corporations. It gives them all the benefits. It basically gives them 80,000 hectares to start with, and then after you are able to locate where you're putting up your mine in the area, you have the right to ease out 80% of any population that is living in that area. You have prior rights to the water, you have prior rights to everything. That is what *The Philippine Mining Act* does, and it was made in confidence between the ruling classes and the corporations.

[00:13:03] **Ryan Katz-Rosene:** That's quite interesting. We're seeing a whole range of players here from the investors that are putting up the financial capital, the actual corporations, the mining corporations that are involved in development and in particular, the Philippine government which is facilitating this process. While we're talking about governments and how they facilitate the industry, what did Chandu have to say about the role of the Canadian government in all of this?

[00:13:35] **Peter André:** Yeah, that's a good question, Ryan. Chandu pointed out that Canadian mining companies have received diplomatic support and funding by agencies like *Export Development Canada (EDC)*, as well as the *Canadian International Development Agency*, or CIDA, which is now part of *Global Affairs Canada*.

[00:13:53] **Chandu Claver:** These two entities regularly pumped millions into mining operations in notoriously troubled for it areas, and that includes the Philippines.

[00:14:03] **Peter André:** Chandu went to point out some of the reasons why Canada is such a big player in the global mining industry, arguing it's a combination of the politically

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economic history of Canada, which involves a lot of domestic mining of course, combined with a rather lax regulatory system for these companies.

[00:14:21] **Peter Andrée:** So as an example, he pointed out that publicly traded mining companies listed on Canadian stock exchanges are subject to regulations that enabled them to appear to have greater mineral reserves than they actually have confirmed knowledge of, thereby encouraging more investment in what could be considered highly risky ventures.

[00:14:43] **Chandu Claver:** Most Canadian financial institutions, mutual funds and major private, public, and union pension funds, including the Canada Pension Plan (CPP) are heavily invested in this, which I call shadowy enterprises.

[00:15:00] **Ryan Katz-Rosene:** So again here, he's making me think of my own pension fund and I imagine yours at Carleton, Peter, and that of many other Canadians. Chandu seems to be pointing out that most Canadians are likely investors, in one way or another, in Canadian mining companies, which are involved in foreign operations abroad, which may be contributing to some of these social and environmental challenges that we've just been hearing about. Is that right?

[00:15:33] **Peter Andrée:** Yeah, that's a good way of summing it up, Ryan. That's exactly what Chandu said.

[00:15:37] **Chandu Claver:** This is the aspect of the investment that shareholders in Canada never get to see. The individual Canadian shareholder who puts in his or her hard earned money to be invested is so well insulated from the knowledge of what his or her money is actually enabling in far away countries. The investor never sees the tears, never sees the blood, the dead bodies, never feels the horror, never tastes the fear. And the Canadian state, unfortunately, permits and even encourages that.

[00:16:23] **Ryan Katz-Rosene:** So Peter, Chandu has shared with us a really important and personal story and what we've heard so far is that when environmental and human rights abuses occur in the global mining industry, we can allocate some of the responsibility for this in a couple of different directions.

[00:16:44] **Ryan Katz-Rosene:** We can talk about the state where the mining activity is taking place, so in this case the Philippines and the government of the Philippines; we can talk about the stock exchanges and the regulatory systems of the countries where these companies are headquartered, where financial capital and important investments are being raised for these companies to use in their operations. For many major mining companies around the world, that really is Canada. That brings up the role of the Canadian government as well, which I think we're going to talk about later in this episode. So I know you talked a

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bit with Chandu about how these issues can be addressed, but let's first hear from some of our other guests. Who was the next person you talked about these issues with?

[00:17:32] **Peter Andréé:** Well, let me introduce you to Teresa to bring a new perspective to the table.

[00:17:37] **Teresa Kramarz:** I'm Teresa Kramarz, and I am an Associate Professor at the Munk School of Global Affairs and Public Policy in the University of Toronto. I work on global environmental politics and I focus on questions of environmental accountability and governance of extractive industries.

[00:17:57] **Teresa Kramarz:** I've been working particularly around the issue [00:18:00] of renewable energy, solar, wind, and long life battery storage, and the kinds of critical minerals and supply chain of these critical minerals required in order to produce solar panels and wind turbines, et cetera, in order to mitigate climate change.

[00:18:16] **Ryan Katz-Rosene:** Yes, Teresa, she's actually a colleague of mine, who I know, and I think she can really bring a macro level perspective to some of the issues we're talking about in this episode.

[00:18:26] **Peter Andréé:** Yeah, that's right, Ryan. Teresa studies the way [00:18:30] that extractive industries, like mining for critical elements, affects communities. She also thinks a lot about what can be done to address those issues at various levels. We'll get to this question of policy and solutions shortly, but first I want to share some clips that helped me really understand the different kinds of socio-ecological harms, is how Teresa puts it. What she calls *displacements* that communities can experience as a result of extractive activities like mining.

[00:19:01] **Teresa Kramarz:** When we think of socio-ecological harms associated with extractive activities, we can think about three broad categories. One is the kinds of displacements that are generated through dispossession. So think of land grabs, but more broadly, when we think in the context of controlling land and commodifying by separating land from labour. There's a new extractive regime that emerges: the vehicles to dispossession are probably like property rights, or mining concessions, or constitutional provisions, contracts that create and convert land into resources for extraction and accumulation. That's one sort of bucket of displacements.

[00:19:53] **Teresa Kramarz:** Another is displacements by degradation. So think here in terms of the kinds of harms that are generated to human health, to ecosystem health, and this exists a lot at the extractive end. So whenever I'm thinking of mining and minerals, I'm thinking of extraction, transportation, production, and then disposal. There's a lot of human

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health and ecosystem damages that are usually associated with the extractive stage of the supply chain.

[00:20:26] **Teresa Kramarz:** Then the third one is through dependent development or sometimes called maldevelopment. This is the way in which extractive activities kind of entrenched development pathways in ways that lock local economies, national economies, into low value forms of resource extraction or become waste disposal sites.

[00:20:49] **Ryan Katz-Rosene:** I see what she's saying here, local communities first faced the socio-ecological harms that Teresa refers to as displacement by dispossession, and then there's displacement by degradation, or whether that degradation is associated with the extractive processes to themselves or how the system deals with waste. Then we have the effects of the development processes themselves that are now highly dependent on these extractive and often harmful activities.

[00:21:24] **Peter Andrée:** Yeah, that's right. Part of the reason Teresa sets up this typology is to point out that when we hear about a mining disaster, and she gave me several examples much like the story that Chandu started with, these are kind of like the tip of the iceberg and we need to see the whole thing to make sense of it.

[00:21:43] **Teresa Kramarz:** So these are big and fast environmental disasters that capture people's attention and do create vulnerable subjects, but they're also the ones that are sort of death by a thousand cuts. The ones that are structurally happening every day: that are every day contaminating water sources, that are every day undermining people's ability to grow their economies in ways beyond the real direct relationship with an industry. Then that intersects with what are the community or households ability to respond to these disasters, to these fast disasters and these slow disasters.

[00:22:26] **Ryan Katz-Rosene:** Okay, so we often hear about the fast [00:22:30] disasters, I think is what she is saying. But the slow disasters are kind of just as impactful, if not more, on a day-to-day level for the people living with extractive industries and near extractive projects around the world. Is that right?

[00:22:44] **Peter Andrée:** Yeah, and I quickly turned my conversation with Teresa to the question of who is really accountable for all of this? How does this affect what we can do in a country like Canada, to try to take things in a more sustainable direction? On the question of who is accountable, Teresa told a similar story to Chandu. Noting that the governments of the states where extraction is taking place, in Chandu's case, that was the Philippines, they definitely have some responsibility but we can't only look to them; and for her this has to do with what she calls the *Architecture for Accountability*.

[00:23:22] **Teresa Kramarz:** These are global chains, these are global value, and global supply chains. The fact that we have states as our unit of analysis doesn't really correspond with the



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nature of the interaction, it's not a good fit. I mean, it's not the appropriate architecture for accountability relationships because the state is actually using these communities and pushing extractive frontiers in order to fit within a broader economic order in which itself is often relegated to. I'm speaking mostly of minerals and extraction sites in the global south, it's mostly relegated to a role of producer where it doesn't have the same kind of leverage to demand accountability and force rules as other states with more diversified economies, for example.

[00:24:18] **Ryan Katz-Rosene:** That's interesting, it sounds like Teresa is really thinking about how governance can work, but also how it often can't, or quite frankly, doesn't.

[00:24:29] **Peter Andréé:** That's right, and in fact Teresa and I spoke a bit about what she called accountability gaps and traps in what states and companies are currently doing, especially as it relates to the minerals needed for a renewable energy transition.

[00:24:43] **Teresa Kramarz:** Gaps we refer to as absence of governance, and traps we think of in terms of governance that's accountable, but it's accountable for meeting its own metrics rather than socio-ecological outcomes. So, I said I would invite, I don't know, three communities to a workshop in order to explain to them what the project is all about; checkbox, done. But it is not accountable for outcomes.

[00:25:12] **Teresa Kramarz:** So that's a tool, that's a means, that's not an end in itself, right? Having, I dunno, consultative workshops, not an end in itself. So that's not just a governance gap, that's a trap because the companies are being accountable for what it wants to be accountable for, as opposed to what sociological outcomes require it to be accountable for.

[00:25:30] **Ryan Katz-Rosene:** Okay, we've got gaps and traps and the accountability traps include mechanisms that basically appear to kind of ensure or offer some form of accountability, but only really to the expectations of the company itself. These don't really actually hold them accountable to the broader socio-ecological outcomes.

[00:25:56] **Peter Andréé:** That's right, Ryan. What Teresa is pointing to is the traps and gaps in what we might think of as a loose patchwork of transnational regulations that include corporate social responsibility (CSR), but also kind of this tapestry of self-governance initiatives that really have limited accountability and few sanctions. Here, I'll let Teresa say more of it herself.

[00:26:24] **Teresa Kramarz:** When we look at the ecosystem, the loose patchwork, as you are aptly calling, of transnational regulations that are governing the supply chain of critical minerals. We want to know, okay, what are the primary purposes of your rules? Who is designing these rules? Who's being held to account? To whom, for what? What minerals are getting captured and which ones are just flying under the radar?

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[00:26:50] **Teresa Kramarz:** We find, I think, patterns that are broadly applicable beyond these critical minerals. So we find transnational mechanisms mostly concentrating on voluntary standards and corporate practices. Most of it focuses on regulating conflict minerals rather than minerals beyond the ones that are associated with conflict.

[00:27:11] **Teresa Kramarz:** There's a lot that's not governed across the supply chain of extraction, transportation, production use, disposal. Mostly as I mentioned, dealing with things like mine wastes safety, water use, human rights, and indigenous rights protections. The other problem with depending on transnational mechanisms that are mostly voluntary and depend on corporate practices and CSR strategies is that there's this whole dependence on companies. How willing are they to provide the relevant data? These are big trends and big important questions and reasons why there is a lot of demand for home state accountability.

[00:27:52] **Ryan Katz-Rosene:** I hear where Teresa's coming to this idea of home state accountability as she referred to it, which actually sounds a lot like what Chandu was saying. A country like Canada, as the home state to many global mining giants, has to shoulder more of the responsibility for what companies headquartered here are doing there, right? What they're doing elsewhere.

[00:28:19] **Peter Andr e:** Yeah, that's right. That's exactly the direction my conversation with Teresa took rather than actively trying to reduce regulatory oversight, a country like Canada could be encouraging even requiring companies based here to meet higher standards

[00:28:35] **Teresa Kramarz:** There are cases in which Canada has lobbied to, and I'm thinking of Columbia in particular, not expanding, but reducing the scope of regulatory oversight and environmental protections. We need to go in the opposite direction to, I don't know, create, for example, citizen advisory committees, and to write them into legislation of producer states, or help producer states develop mandatory principles.

[00:29:05] **Teresa Kramarz:** We derive a lot of goods as Canadians from our mines and mining. So I think that there is a duty, not just because the state's accountable for serving the public interests and because the Canadian state supports the mining sector in multiple ways, both financially and politically, but because also silence means complicity, right?

[00:29:26] **Teresa Kramarz:** Maybe I'll be a little controversial in saying this, but what's the point of saying that Canada has a gender balance cabinet of ministers if it's mining companies are raping women overseas? It's really important to take ownership and responsibility, and push for more accountability for Canadian mining overseas.

[00:29:46] **Peter Andr e:** On that point of Teresa's, I'd like to bring Chandu back as well because he also made the case that Canada could have stronger legislation governing its industries acting overseas, and that voluntary oversight under the rubric of corporate social

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responsibility; it just isn't enough. To give you a bit of context, Chandu's group has been pushing for this for almost 20 years. Initially through public hearings and then through what eventually became the failed attempt to get a Private Members Bill (PMB), known as Bill C-300 or *The Corporate Accountability of Mining Oil and Gas Corporations in Developing Countries Act*, passed in Canada back in 2011.

[00:30:30] **Peter Andréé:** The act was not passed in parliament, that was in the Harper era, but if it were it would have put new expectations on Canadian companies. So, the *Cordillera People's Alliance* is still pushing for stronger legislation in Canada, demanding more accountability from our companies through Canadian legislation.

[00:30:49] **Chandu Claver:** We highly recommend legislation requiring Canadian corporations to conduct human rights due diligence to identify, prevent, mitigate, and account for 80 potential adverse human rights, environmental, and gendered impacts that may happen throughout their supply chains and operations. Due diligence means that Canadian companies operating abroad, and their subsidiaries and contractors, would be required to undergo a process to identify risks and outline how they would not cause human rights and environmental harm. Lastly, legislation on due diligence should include significant consequences for companies that cause harm and/or failed to conduct due diligence.

[00:31:46] **Peter Andréé:** Chandu pointed out that France already has legislation like this, that demands companies do this due diligence and the Netherlands are developing similar legislation. But, Canada just hasn't gone down this path, at least not yet.

[00:32:00] **Peter Andréé:** The debate over C-300 eventually led to the creation of a new institution in Canada, though. Something called the *Canadian Ombudsperson for Responsible Enterprise*, or CORE for short. The position of the *Canadian Ombudsperson for Responsible Enterprise* is relatively new. It was established only in 2019 by an *Order in Council* and its complaint form only became available for public use in March of 2021. So, you know, maybe nine months ago at the time of this recording.

[00:32:35] **Peter Andréé:** The CORE's formal mandate is to encourage companies to follow the UN guiding principles and the Organization for Economic Cooperation and Development's (OECD) guidelines, to advise Canadian companies on ways to create responsible business practices, look into complaints about possible human rights violations, and to offer informal mediation services when those complaints rise.

[00:32:58] **Ryan Katz-Rosene:** That is an interesting development, now there's this oversight body to which complaints can be submitted. What did our first two guests have to say about this new institution, the CORE, the *Canadian Ombudsperson for Responsible Enterprise*?

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[00:33:14] **Peter Andréé:** Well, it's a good question. Let me play you a Teresa response first, and then what I heard from Chandu.

[00:33:20] **Teresa Kramarz:** I think it's a great first step to have a *Canadian Ombudsperson for Responsible Enterprise*, but the Achilles heel so far is that it is really providing recommendations. It is not creating mandates and it lacks basic powers to subpoena and compel documents, to bring in witnesses.

[00:33:44] **Chandu Claver:** We at the *Cordillera People's Alliance* consider the *Canadian Ombudsman for Responsible Enterprise* program, or CORE, as a toothless initiative of the Government of Canada. The main reason is that it does not have the power and mandate to effectively investigate possible human rights abuses by Canadian companies working outside Canada in the mining and other industries.

[00:34:14] **Peter Andréé:** You hear from both Teresa and Chandu on this question, where they both seem to agree that this kind of institution needs more power if it's going to be effective. Chandu's position is that the CORE is insufficiently independent and both say it doesn't really have the kinds of investigative powers that it needs to compel documents and testimony. Chandu also noted that the kind of people he works with are unlikely to bring a complaint forward to the ombudsperson, considering these constraints on the ombudsperson's role.

[00:34:48] **Chandu Claver:** Bringing a complaint against a multinational company carries significant risk, especially for the complainant. People will not want to assume the serious risk of filing a complaint against a multinational company when the process they are entering into does not work.

[00:35:09] **Peter Andréé:** I think it's important to point out here Chandu says the process that complainants are entering does not work, and the reality is this process in Canada only just started nine months ago, and so he's making assumptions that it will not work. But part of why he's saying that is he pointed out that CORE's mandate also includes a parallel process that allows mining companies to file complaints against community representatives and other human rights defenders, and that this whole process of making your complaints publicly in this way and then the possibility of counter action really creates a situation of vulnerability for the complainants, whether they're here in Canada or back home in another country, like the Philippines.

[00:35:53] **Ryan Katz-Rosene:** I see, so CORE will hear out complaints from both sides and that's an interesting component to this. I'm wondering Peter, is it fair to say that the only real power CORE has here is to sort of gently encourage companies to fulfill their corporate social responsibility? Like, do we think that having an impact on a company's reputation is going to be sufficient enough to make a real difference here?

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[00:36:20] **Peter Andréé:** Well, those are good questions, Ryan. On the question of whether that's the extent of CORE's mandate, I think we can come back to that in a second. But this question of reputational impact, I think, is an important one. I did ask Teresa what her experience and research says we might expect from a system that relies on reputational effects and here's how she responded.

[00:36:43] **Teresa Kramarz:** Companies are neither good, nor bad, but they have a purpose. They have a purpose that is their *raison d'être*. They exist in order to generate goods and services, at prices that are going to be adequate for producers, suppliers, consumers. Their chain of accountability is to their shareholders. It is important to consider what is the constituent of the role of these actors and not expect public functions out of a private actor.

[00:37:17] **Teresa Kramarz:** It is the role of government to secure and protect the public good, to ask companies to take on public functions is both analytically and empirically problematic. It's perhaps way beyond what they are actually there for. I'm sure there will be cases where reputational damages matter, but I don't believe that this is a recipe for self-regulation.

[00:37:46] **Ryan Katz-Rosene:** That's an interesting perspective on the relationship between corporate social responsibility and the role of the state. It raises other important questions about what the CORE really can do, how it works, and whether it really can kind of get companies to take the high road based on potential impacts to their reputations. I know Peter that while you were working on those interviews with Chandu and Teresa you decided to reach out to the CORE directly on this.

[00:38:21] **Peter Andréé:** Yes, that's right, Ryan, I did. I brought some of the questions we've been dealing with to none other than Sheri Meyerhoffer who is currently the *Canadian Ombudsperson for Responsible Enterprise* occupying this new office that Teresa and Chandu just talked about. We came to an agreement with her team that Sheri would listen to the first part of this episode, and then we'd ask her some questions about how she sees her office engaging in these issues moving forward.

[00:38:50] **Ryan Katz-Rosene:** Okay, so why don't we start by having Sheri introduce herself?

[00:38:55] **Sheri Meyerhoffer:** My name is Sheri Meyerhoffer I'm the *Canadian Ombudsperson for Responsible Enterprise*, and I lead a new Canadian, innovative, arms length and independent ombuds office.

[00:39:07] **Peter Andréé:** The first thing I asked Sheri about is how she would characterize the issues that led to the creation of her office. We already heard from Chandu and Teresa talking about some of the human rights and environmental issues in the extractive sector,

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and the calls for increased intervention by the Canadian government that this has led to. I wanted Sheri's perspective on why her office exists.

[00:39:28] **Ryan Katz-Rosene:** Okay, so that's a good place to start and what did she say?

[00:39:32] **Peter Andr e:** What I found most interesting is that she didn't start with the issues that led to the call for stronger oversight. Rather, she was talking about the idea that Canada is first and foremost, a country with a long history of supporting human rights and that her office is a natural outcome of that history.

[00:39:49] **Sheri Meyerhoffer:** Canada's proud of its commitment to protect human rights, both at home and overseas. This commitment is historic, with Canada being instrumental in the creation of the *Universal Declaration of Human Rights*, over 70 years ago in 1948. This commitment is consistent and ongoing because Canada is a signatory and has ratified the major human rights treaties, declarations, and covenants over the last 70 years.

[00:40:13] **Sheri Meyerhoffer:** Our commitment means that all of our domestic laws must be compliant with international human rights documents, and companies are, of course, held accountable to comply with those when they're working within Canada. These same principles apply when Canadians, or their representatives including Canadian companies, are operating outside of Canada.

[00:40:34] **Sheri Meyerhoffer:** But, there isn't an international legal framework that can hold them accountable, like we can within our own borders. So, this led to the creation of the *United Nations Guiding Principles for Business and Human Rights*, which Canada, again, was a big supporter. One of the things in that document was the state creation of nonjudicial mechanisms to influence companies, to hold them accountable, and help to provide remedies if-and-when Canadian companies are operating overseas and the human rights abuses occur and harms arise.

[00:41:08] **Ryan Katz-Rosene:** I see. So, Sherri kind of positions her office as a response to Canada's international commitment to human rights, I guess.

[00:41:17] **Peter Andr e:** Well, that's it. She says the CORE is really the Canadian manifestation, albeit the first in the world and thus an institutional innovation, of Canada's commitment to the 2011 UN guiding principles for business and human rights.

[00:41:31] **Ryan Katz-Rosene:** Okay, so how do Sheri and her staff engage, or plan to engage, some of the issues like those raised by Chandu and Teresa?

[00:41:41] **Peter Andr e:** Good question. Sheri spoke to this by placing the CORE in the context of two things. One, the history and importance of Canadian mining, as well as the oil and gas companies. Secondly, the recent conversations in Canada about how to regulate

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Canada's extractive companies overseas that led to the push for Bill C-300, which I mentioned earlier.

[00:42:02] **Sheri Meyerhoffer:** My office is a human rights ombuds office, we focus only on human rights, which is why I've explained about the international principles and those documents. We only have three sectors under our jurisdiction, under our mandate, and that's mining, oil and gas, and garment.

[00:42:20] **Sheri Meyerhoffer:** That arises from the historic situation. I think that the data's still the same, but around 60% of the world's mining companies, for example, are based from Canada. If there's something that's happening overseas or around the world in mining, there's some harm that occurs, it's highly likely it's going to be a Canadian company. This is a concern for a country like Canada, that prides itself on its commitment to protecting human rights, wherever they might occur in the world.

[00:42:48] **Ryan Katz-Rosene:** Okay, let's get to the core of all of this, and sorry for the pun. Ah, okay. I'm not sorry, but anyway, Peter, I guess what I'm kind of wondering is: how does Sheri think she can help communities in getting companies, mining companies, to actually address environmental and human rights issues?

[00:43:06] **Peter Andr e:** Well, yeah, that's the question, and as we've already heard from Chandu and Teresa at the heart of CORE's work is the ability to hear and act on complaints about Canadian companies overseas; this is how Sheri put it.

[00:43:19] **Sheri Meyerhoffer:** We can receive complaints, and when we receive a complaint, we can negotiate an early resolution, we can mediate a complaint, or we can review it, and we can also initiate our own review.

[00:43:31] **Ryan Katz-Rosene:** It seems good that Canada has a new mechanism to allow complaints to be heard. But at the same time, we heard from Chandu that many communities and human rights advocates actually feel it's too risky to file these kinds of public complaints. Did Sheri address that?

[00:43:49] **Peter Andr e:** I did ask her about this and her response emphasized that under many circumstances, complainants can actually remain anonymous as a form of protection, and that this could be enough for her office to initiate its own review or investigation of a specific situation or a company's actions.

[00:44:06] **Sheri Meyerhoffer:** People can approach us either with an inquiry, in a very informal way to ask about what we do and how we do it without giving any specifics. So, it'd be completely anonymous and just sort of scope out how we can help them, or they can submit a complaint at the same time. If we get an inquiry, what we would describe to people is: you can submit a complaint to us. You can do it anonymously without giving your name

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and you could tell us how to get ahold of you. We will communicate with that person and tell them what we can and cannot do.

[00:44:41] **Sheri Meyerhoffer:** There are privacy, things that we can hold confidential, but not everything is confidential; if they are looking for a personal remedy that couldn't be anonymous all the way through. But we would also tell them that we can initiate an ombuds-initiated (ombuds initiated) review so we can keep people's identity completely anonymous if they don't want any compensation directly to themselves, or we could do a ombuds-initiated review.

[00:45:04] **Ryan Katz-Rosene:** And what would Sheri's office be able to do once they launch a review of this type?

[00:45:11] **Peter Andrée:** Well, that would depend on the nature of the complaint and what the community that is impacted wants to see done. But clearly one of the first steps would then be to engage the company involved.

[00:45:21] **Sheri Meyerhoffer:** We could then offer up to talk to the company to find out if we could do an early resolution. What is the problem? What is it they're [00:45:30] looking for? What do they think would be a good redress, remedy, for the harm that they've described? We can go to the company and see what their response would be, can this be resolved as simply as that?

[00:45:43] **Sheri Meyerhoffer:** Or if not, then we would next offer mediation. That would be where we could bring both parties into a room, we can do it virtually, we can do shuttle mediation. We already have a mediator on staff and some consultants, but we're going to have a roster of mediators around the world in different countries that speak different languages. That would be third-party mediators that could work with a company in the complainant to come to a resolution. The details of that mediation could be kept private, if both parties would like it to be private, or certain aspects of the agreement can be made public. But in any event, we will be letting the public know that we held a mediation, and that it was either successful or unsuccessful.

[00:46:26] **Sheri Meyerhoffer:** If mediation doesn't or isn't able to resolve the problem, and if the complainant wants to go further, we can do a review, which is an investigation of a situation. We would come to some findings of fact, based on those findings of fact, we would write up a report with recommendations to the Minister of International Trade. We would give opportunity to the company to review that report and make their own comments. They don't have any ability to influence the findings, but they can put their own sort of statement forward, which will be part of the report. That report is then published and available to the public.



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[00:47:01] **Ryan Katz-Rosene:** That's interesting, in our conversations with Teresa we had kind of drilled into whether this type of reputational damage could really be enough to pressure companies to uphold the highest standards. So I'm curious, what Sheri's take is on whether this kind of pressure, this reputational pressure, can really make a difference.

[00:47:24] **Peter Andr e:** Well, Sheri believes that the kinds of reports her office can write, the kinds of mediation that they can undertake, and the potential damage it can do to a company if they don't engage constructively with her and the communities that bring forward complaints, she believes they can have an effect on at least two levels. There's the support of the government of Canada, and then there's the ongoing support of investors.

[00:47:49] **Sheri Meyerhoffer:** The power that I have is a soft power, it is influencing and it's influencing through these levers. The levers are either recommendations to withdraw trade support by the government, so the government now is not going to support a company, and depending on the country that's pretty big for companies. Without that support, it can be very difficult to operate outside of Canada. But if we were to do a report and publish it, and it is publicly known that a company does not have social license in one part of the world to do its operations, then I think investors are more and more looking into the social license and the investment risk involved when a company doesn't have it. If they haven't conducted themselves responsibly, they may not get investment from private investors either, which is critical.

[00:48:39] **Ryan Katz-Rosene:** Okay, this all has potential to influence companies and their investors, but the same issue can come up that we discussed with Teresa. What if the company ultimately decides not to engage or, what if they deny that what they did was wrong?

[00:48:55] **Peter Andr e:** Well, that's a really important question. Both Chandu and Teresa emphasized that the CORE's power has its limits. This is where I found Sheri's response, maybe most interesting. She noted a couple of things. First, she can recommend that the Minister of International Trade revoke financing or trade services provided by Export Development Canada. You know, she just mentioned that, and these are precisely the ways that Chandu emphasized that the Canadian government directly supports many Canadian mining companies overseas. Secondly, and this is really important, her mandate includes the possibility of pushing for stronger regulation in Canada, if the kind of work her offices are designed to do doesn't achieve the outcomes that it is designed to achieve.

[00:49:43] **Ryan Katz-Rosene:** It sounds, ultimately, like she doesn't think her office is as toothless as some of the CORE's critics have suggested.

[00:49:52] **Peter Andr e:** Yeah, that's true. In fact, she made a point of responding directly to that criticism that she heard in the first part of the podcast. [00:50:00]

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[00:50:00] **Sheri Meyerhoffer:** I think we have a full mouth of teeth, but we just may need to strengthen our jaw a little bit more. I do believe that as we receive complaints and we work towards resolution, and we seek to get remedies actually applied to address these harms, we will discover when and where we might or do need these additional tools. That will be the evidence that we can then put forward to the Government of Canada to show that it would be helpful. I think that it's a good start, we've got a good toolbox, lots of things to work with and that if we need more, that's going to become evident.

[00:50:38] **Ryan Katz-Rosene:** It's really interesting to hear the ombudsperson's own take on these questions and about the office itself. Peter, I'm wondering if you think it's fair to say that for now all of this is kind of hypothetical since ultimately this office was only just made fully operational in the last calendar year.

[00:50:58] **Peter And r e:** That's right, only time will tell how effective the CORE can be, whether it will truly affect the behavior of Canadian mining companies operating overseas, or whether it will ultimately lead to calls for more stringent regulation coming from people like Sheri herself. But I want to add two things here that gives me some hope that we've got the right person for this kind of job in the *Canadian Ombudsperson for Responsible Enterprise*.

[00:51:25] **Peter And r e:** First, even though Sheri doesn't have specific success stories to point to the day I interviewed her, the CORE was launching its first investigation. In this case of the garment industry. You may have heard in passing earlier that Sheri mentioned that her mandate covers mining, oil and gas, and the garment industry, the clothing industry. This last bit is because as you'll recall, in 2013 there was a major catastrophe in Bangladesh, the Rana Plaza disaster, in which over a thousand garment workers, most of whom are women, died when the huge factory they were working in collapsed despite warnings having been provided to the management that the factory was weak and that this was a concern.

[00:52:11] **Peter And r e:** Many of the items of clothing these women were working on were destined for the Canadian market. There was a lot of investigative journalism at the time really trying to tell that story and show how consumers in Canada were implicated in what happened in Bangladesh. As a result, one of the first orders of business that Sheri's office is going to undertake is to do a deep review of the garment industry from a human rights perspective, looking specifically at the role of child labor in the clothing industry and how we can improve Canadian supply chains, including the regulations that govern them to ensure human rights are respected in this industry.

[00:52:50] **Sheri Meyerhoffer:** Part of our mandate is to make recommendations on law reform, and so we have launched today a study to understand the barriers to respecting child rights throughout the supply chain of Canadian garment companies that operate abroad. We're going to be looking at what type of human rights due diligence are companies currently putting in place, and we'll look specifically at child labor because child labor is an abuse of child rights. Of course, child rights are human rights and we're human rights

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ombuds, so this is definitely right within our mandate. We will gain knowledge that will help Canadian companies change the way they act if they need to, or improve what they're already doing, and it'll help the Government of Canada to understand whether they need to do anything with our laws going forward.

[00:53:38] **Ryan Katz-Rosene:** Oh, that sounds like a very important initiative. Peter, earlier, you said there were two things that gave you some confidence that Sheri might be the right person to make a difference through this office. You mentioned one, what's the other thing?

[00:53:53] **Peter Andrée:** Well, remember the idea that I raised earlier in our conversation that companies can also file complaints against human rights defenders through the CORE. Chandu first brought this to my attention as something that raises serious concerns for community activists when they think about whether they want to engage with CORE. Indeed, Chandu was right in the sense that a parallel process for hearing company complaints was originally *supposed* to be part of the mandate of the CORE. But Sheri says she helped remove that from her mandate after she was asked to actually be the ombudsperson.

[00:54:28] **Sheri Meyerhoffer:** When I first took office in May of 2019, that ability was included in the *Order in Council* that sets out my mandate, but after advocacy by myself as the ombudsperson in my office, and also by other civil society organizations, that clause, that ability, was taken out of my *Order in Council*. At the same time, the *Order in Council* was also amended to provide a much broader definition of Canadian companies. So, by August-September, a few months after I was appointed, we would manage to get those improvements to the mandate of the office.

[00:55:04] **Ryan Katz-Rosene:** I see. So, Sheri, along with the advocacy of civil society organizations, really pushed for an office here that sees its work first and foremost as being about protecting human rights and doing investigations on behalf of those who believe their human rights have been violated.

[00:55:22] **Peter Andrée:** That's right. But as we said before, we'll have to see how this work plays out in the coming years.

[00:55:28] **Ryan Katz-Rosene:** Yeah, I guess we'll see how things play out in the coming years. So, Peter, what are your final takeaways here?

[00:55:35] **Peter Andrée:** First? I'm really glad I did the interviews for this episode in order to understand this issue more deeply. I have enormous gratitude for Chandu, who shared his history with us, and I'm proud that he's doing the work he's doing here in Canada to raise concerns about the actions of Canadian companies overseas and to push for due diligence

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legislation in this country. That's really what he emphasized, and I'm pretty convinced that we do need such legislation for the reasons Chandu presented.

[00:56:05] **Peter Andréé:** I'm also grateful that we have academics in this country like Teresa, whose work really tries to unravel the complexity of these problems and make governance recommendations. Her work brings a bigger perspective to this story, and I'm so glad we were able to speak with her.

[00:56:21] **Peter Andréé:** Finally, I'm glad to see that governance does seem to be getting stronger. I'm not sure if the mandate of CORE is perfect, but I do think it's a step forward. I'm grateful that Sheri was willing to talk frankly with us, and it gives me hope seeing someone like her behind the wheels of this new institution.

[00:56:42] **Peter Andréé:** I guess my final thoughts are that Canadians, as investors, as citizens, and as students learning about these issues, we need to keep our eyes on this sector and keep pushing for accountability. Given the importance of this industry to Canada, that most of the international mining companies are based in Canada, Canadian eco-citizens have a huge responsibility to learn about the sector and to use our power as investors, and as voters in our government, to hold the sector to account. Before we close this podcast, I just want to share some final thoughts from Teresa. I think these really fit with the focus of the series on 'Everyday Ecopolitics' and the kinds of reflections and actions we can take as individuals to make a difference in [00:57:30] the world we inhabit.

[00:57:31] **Teresa Kramarz:** I think a lot about: what does it mean to be sustainable? To really consider how we want to move forward. You know, climate change, biodiversity species extinctions, these multiple environmental crises are taking us to an inflection point; to really decide what do we value as a society? To consider what are the things that we consume, what do they come from, and what were the trade-offs in producing them? And why is this stuff so cheap? How much of it do we need? When we think about justice, think about not just the distribution of goods and bads, but think also about what kind of recognition do we give to communities, to their worldview, to their values?

[00:58:23] **Teresa Kramarz:** What kind of participation, what kind of procedural justice do we afford communities who are going to be implicated in the decisions that we make? What kinds of capabilities do communities have to be able to negotiate futures that are good for them? Negotiate with mining companies, negotiate with their states, negotiate with global supply chains.

[00:58:50] **Ryan Katz-Rosene:** That's an insightful point to close out today's episode. That does sum up today's discussion. I want to thank you, Peter, for doing all the hard work of interviewing all these people. That was fantastic. Thanks for bringing the voices of Chandu and Teresa and Sheri to our listeners today.

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[00:59:08] **Ryan Katz-Rosene:** Dear listeners, we're really curious to hear what you have to say, get in touch, let us know what you think on the issues we discussed in today's episode. What can you do to make the supply chains of the minerals we all rely on more just and more sustainable? What do you think of Canada's formal legislative efforts on this matter so far?

[00:59:28] **Ryan Katz-Rosene:** Make sure to follow us on Twitter @EcopoliticsP. Check out all of the incredible artwork and additional resources, like transcripts and pedagogical materials, that we've put together for each and every episode at our website: [ecopoliticspodcast.ca](http://ecopoliticspodcast.ca).

[00:59:48] **Ryan Katz-Rosene:** Now for some credits, this episode was produced by Nicole Bedford, support with transcription and captioning for season three is provided by Ashley Fearnall, and Adam Gibbard helps us with artistic design and digital support. The podcast is made available under a Creative Commons License 2.0 Canada. Thanks for listening.