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Chair: Mr. Peter Fonseca





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• (1835)

[English]

**The Chair (Mr. Peter Fonseca (Mississauga East—Cooksville, Lib.)):** Welcome back, colleagues, to meeting number 11 of the Subcommittee on International Human Rights. Today, pursuant to the motion adopted on October 27, 2020, we're beginning our study on the role of the Canadian ombudsperson for responsible enterprise.

Mr. Reid, I'm glad you found the link. Those are some of the transition pains.

I'd like to welcome our new clerk, Naaman Sugrue. He's no stranger to this committee. Naaman Sugrue was the clerk of this committee back in 2017 to 2019. Some of the members here—some of the vets like probably Scott, Iqra and Anita, and Jennifer I know subbed a number of times, and others—probably know Mr. Sugrue from being here.

As we get on to the meeting, to ensure an orderly meeting, I'd encourage all participants to keep their microphone on mute unless they're speaking. Also, I'll put up my regular 30-second sign when your time is coming to a close. I'll do that for the members and also for the witnesses.

For those who have not used this platform, on the bottom of your screen you'll see a globe. If you need interpretation services for English or French, please select the language of your choice on that globe. Also, please note that screen captures or photos are not permitted.

At this time, I'm going to have the opportunity to welcome our first guest of this first panel. From the Office of the Canadian Ombudsperson for Responsible Enterprise, or CORE, we have Sheri Meyerhoffer, ombudsperson.

You'll have five minutes for your opening statement, and then we'll move to members' questions.

You may begin.

**Ms. Sheri Meyerhoffer (Ombudsperson, Office of the Canadian Ombudsperson for Responsible Enterprise (CORE)):** Thank you, Mr. Chair, and thanks to the members of the subcommittee for your invitation. I appreciate your interest in the work we do and I'm eager to answer your questions.

[Translation]

Our office is the first of its kind in the world. I think Canadians should be proud of this, as well of our commitment to protect hu-

man rights abroad. In short, CORE, or the Canadian Ombudsperson for Responsible Enterprise, is the name under which we are known. Our mandate consists in investigating potential human rights violations in the context of the activities of Canadian businesses abroad in the clothing, mining, oil and gas sectors.

We are independent, impartial and transparent in our work. We are required to make public reports. We also have tools to initiate reviews, carry out investigations, conduct mediations and, if necessary, make proactive recommendations to the Minister of International Trade.

• (1840)

[English]

The idea of the CORE was announced by government in 2018. I was appointed to my role more than a year later. Our team is currently concluding what we consider our start-up phase. We are working from a blank slate. We are the first of our kind in the world. That meant consulting widely.

We engaged with more than 200 stakeholders. We developed and refined our operating procedures. We published policy briefs and statements. We listened to ensure that we were building an office that will make a positive difference in the world. Now, this winter, we have arrived at an important time for our team and for our mission.

In the coming weeks, we will be launching an online complaints portal. It's a way for people and communities to reach out to us. Anyone, anywhere in the world and at any time will be able to lodge a complaint by computer, phone, online form, email and even by letter. The online portal is easy to use. When a complaint is filed, it can be done so anonymously. If people or communities have an issue, they can make their voices heard and we will respond.

As with any new body or agency, the creation of CORE has prompted a lot of enthusiasm, but also a range of questions.

[Translation]

Specifically, I am often asked whether we have the tools we need to do our work. I would like my answer to be very clear.

[English]

I believe our office can make a real and positive difference now. We can respond to complaints and initiate reviews. We can engage in mediation and publish our findings. We can make recommendations for action and publicly issue follow-up reports on their implementation. In other words, we can help Canada promote and protect human rights, full stop.

I have tremendous pride in what CORE is doing and great belief in our potential. We are eager to begin our investigative work. Canadians expect their companies to respect human rights no matter where they operate. The creation of our office represents another example of Canadian leadership on the international stage.

Thank you. I look forward to our discussion.

**The Chair:** Thank you, Ms. Meyerhoffer.

Now we are going to go to members for questions.

We are going to commence with the Liberals. We have Ms. O'Connell for seven minutes.

**Ms. Jennifer O'Connell (Pickering—Uxbridge, Lib.):** Thank you, Mr. Chair.

I think my broadband might be a little bit slow tonight, so hopefully I won't freeze.

Thank you for your presentation.

I recognize that this is somewhat new, and it's great that the online complaints portal is beginning, but what have you designed in terms of how you will determine what complaints to investigate? I'm sure you will have many, but what's that threshold? What's that protocol? What are the key points that need to be hit to actually begin that investigation?

**Ms. Sheri Meyerhoffer:** We have developed, through very broad consultation, our operating procedures, which have been translated into French and Spanish. It's taken a good deal of time to consult and to make sure that all people have had a say and are comfortable with our procedures. It's quite detailed in terms of time.

With respect to what we will hear, there are three admissibility criteria. Number one, is it a Canadian company? We have to determine whether it's a Canadian company. Is there an alleged international human rights abuse? Is it outside Canada? It has to be outside Canada, it has to be a Canadian company, and it has to be a human rights abuse that is recognized internationally.

• (1845)

**Ms. Jennifer O'Connell:** Thank you so much.

I have a follow-up question.

How will you determine a Canadian company in the sense of this globalized world? There are not very many borders anymore. I recognize the criteria around the industries that you're looking at, so that might be a little bit easier, just in the sense of head offices or where these companies maybe originated, but with aggressive taxation planning, companies can set up head offices or corporate headquarters around the world. Is there a broad definition to determine

that to get away from...? In this case, it's oversight, but we see it elsewhere, usually for taxation purposes. Is there some thought that has been given, or consultations that were given, to look into that to make sure there aren't loopholes?

**Ms. Sheri Meyerhoffer:** Thank you, Mr. Chair.

Yes, there is a broad definition of "Canadian company" in our order in council, which sets out our mandate. That definition will allow us, if it's a company that is formed in Canada in any way—it doesn't have to be incorporated—or any company that is controlled by a Canadian company and those that are controlled by that company.... There are three layers there. We will have to apply a very strict protocol as to how we determine that. We have consulted broadly on that with stakeholders, and we are putting a process in place for those determinations. It's part of our operating procedures.

**Ms. Jennifer O'Connell:** Thank you.

In terms of one of the processes, essentially, one of the mechanisms is naming and shaming, to put it in those terms, if you determine there are findings. Is there a process whereby you don't always name and shame? I used to be on the finance committee, and we talked about some of the financial mechanisms around the world and sometimes there are decisions not to name and shame and the justification.

Is there a protocol in place, or must you always provide that type of report? Do you have some sort of annual reporting for the investigations or the procedures that you've done, let's say in the course of a year, or something like that?

**Ms. Sheri Meyerhoffer:** Naming and shaming is part of publishing, and we are required to publish. If we receive a complaint, we have to publish it. The amount of information we publish with respect to a complaint will depend on the situation. It will depend on whether the situation was mediated between the company and the complainant, and whether the complainant and the company requested that certain information not be published. That's possible, but we will definitely publish that we received 10 complaints, that we reviewed eight—that kind of information will be there. We don't always have to name and shame.

There's also part of our mandate where we advise companies and we promote the international business and human rights standards. We can do a lot of know and show. We can be very proactive to prevent the occurrence of human rights abuses by letting companies know what they ought to be doing to avoid that. That's part of the opposite of name and blame; it's know and show.

**Ms. Jennifer O'Connell:** Do I have more time, Mr. Chair?

I see Madame Gill's hand up. I don't know if it's about translation.

**The Chair:** You have one minute.

[Translation]

**Mrs. Marilène Gill (Manicouagan, BQ):** Mr. Chair, I have a point of order.

• (1850)

[English]

**The Chair:** I think interpretation is not working for me.

[Translation]

**Mrs. Marilène Gill:** The interpretation is working very well. I am commenting more out of concern for the interpreters.

[English]

**The Chair:** I am not receiving any interpretation.

**Ms. Sheri Meyerhoffer:** Neither am I.

**The Chair:** Mr. Clerk, can you check? I cannot get any interpretation.

**The Clerk of the Committee (Mr. Naaman Sugrue):** I am looking into it right now.

I suggest we suspend for just a minute.

**The Chair:** We will suspend.

• (1850)

(Pause)

• (1850)

**The Chair:** Okay, we're good to go.

Ms. O'Connell, you can get in one last very quick question.

**Ms. Jennifer O'Connell:** Thank you, Mr. Chair.

In terms of the industries you're looking at... Again, you're in an infancy stage. Will there be opportunities to review your mandate in terms of additional industries as your role grows, as the organization grows, and the need?

Thank you so much.

**Ms. Sheri Meyerhoffer:** Certainly we're open to advancing our mandate and making a positive difference in the world. We would be open to that eventuality. We would want to ensure, of course, that a clear framework is in place to guide any additional work that would occur because of additions of sectors.

**The Chair:** Thank you.

Now we'll move to the Conservatives and Mr. Chiu for seven minutes.

**Mr. Kenny Chiu (Steveston—Richmond East, CPC):** Thank you, Mr. Chair.

Thank you to the witnesses for coming to talk to us.

Ms. Meyerhoffer, I have a question about your mandate, since you quickly touched on that.

Do you believe the CORE mandate should be expanded to include sectors beyond the three that are listed? Do you think we should expand them? What is your view?

**Ms. Sheri Meyerhoffer:** As stated, certainly we're open to advancing our mandate and making a positive difference in the world. If that were to be by adding sectors, we would be open to that dis-

cussion. We would want a clear framework in place to guide the additional work. So, yes.

**Mr. Kenny Chiu:** Thank you.

Many federal government agencies are burdened with a workload that causes significant delays in fulfilling their CORE obligation. How will CORE work to establish and maintain a timeline for action on cases and ensure accountability for deadlines?

• (1855)

**Ms. Sheri Meyerhoffer:** In our operating procedures, on which we have spent a number of months consulting with our government stakeholders, civil society stakeholders and industry stakeholders, we have timelines. There are timelines in terms of responding when a complaint comes in and various other timelines.

Those are set out, and we will adhere to our timelines. There is discretion in some of those timelines, particularly for working on an investigation.

**Mr. Kenny Chiu:** Thank you.

I am interested in the amount of investigative work you could be getting, because it's a new office, and in the coming weeks you'll be commissioning the online portal, making it very accessible for people around the world any time, anywhere, as you said.

Your vetting procedure and protocol must be quite stringent, because otherwise there would be so much work coming to CORE from around the world that it could be quite overwhelming sometimes.

**Ms. Sheri Meyerhoffer:** Yes, that's very true. Our operating procedures will require us to make sure that it's admissible, so that's the first triage it comes through.

Then, as I said, we have different aspects to our mandate. We have an aspect to mediate, so we can look at mediating. We can do early prevention with companies to try to prevent things before they happen and intervene early so that we can do that. Not everything is an investigation. There will be a lot of determining when facts come in as to how they will be dealt with, and not all will be an investigation.

With respect to investigations, we will have to look at that and limit it to the amount we're able to do.

**Mr. Kenny Chiu:** How do you plan to maintain a constant communication with stakeholders in the industry to make sure that we constantly raise the bar on international human rights but at the same time do so realistically so that we are not disadvantaging Canadian companies?

There have been cases where Canadian companies were held to such a high standard that we had to leave the country, and other countries were able to get hold of the original business in mining or whatever. Therefore, the local people suffered in respect of their human rights being respected.

How do we make sure that this is communicated and also that your procedure and protocols are constantly updated and communicated?

**Ms. Sheri Meyerhoffer:** I've worked in the oil and gas industry for 17 years and know first-hand that what CORE is set up to do is good for business. As part of our mandate, we provide advice to companies, and again, that allows us to be preventative. We can provide advice that allows them to be preventative. It is also for early resolution.

What we're doing is good for companies, and we'll be assisting them to be able to do their work better.

**Mr. Kenny Chiu:** Let me focus on one specific area. What is CORE doing or going to be doing to pre-emptively dissuade perceived foreign government interference in case acceptance, reports and recommendations?

**Ms. Sheri Meyerhoffer:** Number one, our focus is on the actions of specific Canadian companies. Our focus is on companies, not countries, and on engaging in a way that protects and promotes human rights. We're focused on companies.

For guidance on matters like this, if there's an issue with a foreign country, we are fortunate to be able to draw on a wide range of expertise from the PCO, from Global Affairs Canada and from the minister's office. We will be drawing on that expertise.

**Mr. Kenny Chiu:** The other area is how you envision CORE's announced gender and diversity strategy being implemented. What real impact would it have on the actions of CORE?

**Ms. Sheri Meyerhoffer:** We've made our statement, which we consider to be very important, and now we will be integrating that into every aspect of our work. We'll also be putting in place, just like our gender-based strategy, a racial strategy.

• (1900)

**Mr. Kenny Chiu:** I would imagine those strategies would also have to be according to the local situation as well. Am I correct, or are we just implementing Canadian standards in foreign locations?

**Ms. Sheri Meyerhoffer:** Absolutely. Our operating procedures in all our work will be contextualized with respect to the area we're working in.

**The Chair:** Thank you.

We'll be moving now to the Bloc, with Madame Gill for seven minutes, please.

[*Translation*]

**Mrs. Marilène Gill:** Thank you, Mr. Chair.

I would like to say hello to Ms. Meyerhoffer and thank her for her testimony this evening.

This is certainly an important topic for Quebeckers and Canadians. There is a lot of pride in having companies that do business abroad, but unfortunately, certain events undermine that pride in some cases. We have a lot of testimony and reports listing some companies' questionable practices, and I have a question about this. Given that the office has been in operation since 2019, do you have any examples of cases you handle?

You provide mediation, but, I imagine, always with the desire to protect, to defend and to promote human rights, as you said. I don't know whether you have examples of cases that come to mind, without naming any names, of course.

[*English*]

**Ms. Sheri Meyerhoffer:** It's been three years since the government announced the idea of an ombudsperson, but I've been in my role for a much shorter period of time.

We're the first of our kind in the world. No other country has tried to do this, so it's very exciting. We're working with a blank slate, and because Canada's reputation in the world is so strong and so important to Canadians, we knew we had to take the time to do this right. Apart from the logistical aspects of creating a new entity within the government, we knew it was essential to consult widely here in Canada and around the world. As I mentioned before, we engaged 200 stakeholders, and we've developed and refined our operating procedures.

To date, we have not received any complaints. We have not been open. We have been in the creation stage. As I mentioned in my opening remarks, we will be launching our online portal. At that point, we will be receiving complaints and we will be either mediating or doing reviews. There have been no cases to date.

[*Translation*]

**Mrs. Marilène Gill:** Thank you.

I actually have another question about this. I understand that something completely new is being implemented, and that is why I am wondering about certain things.

Ms. Meyerhoffer, you said from the outset you feel that you have all the tools required to do your job properly, but I hope that would be re-evaluated based on the concrete work you will do in relation to the complaints you will receive. It is difficult to say right now that you really have all the tools you need, since the work is something new and since it cannot be evaluated right now.

[*English*]

**Ms. Sheri Meyerhoffer:** Thank you, Mr. Chair.

When I say that we have the tools we need in our order in council, we have the ability to respond to complaints, initiate reviews, conduct investigations—either collaboratively or independently—engage in mediation, and make remedial and other recommendations and reports. Those are all the tools we have.

I'm confident that we have what we need to launch our complaints portal now. Yes, down the road, once we do the investigations, we may find that this needs to change. We may need to re-evaluate at that time. So yes, that's correct, but we have the tools in our OIC to get started on this, and we will learn along the way.



• (1905)

[*Translation*]

**Mrs. Marilène Gill:** I'm glad to hear that it will be re-evaluated.

I was thinking of the example of Canadian businesses in Mexico. There are more than 200 of them right now. In that case, only one country in the world is being targeted. That shows how important the work is in terms of quantity and, of course, quality.

What budgets and staff are at your disposal to carry out that work, Ms. Meyerhoffer?

[*English*]

**Ms. Sheri Meyerhoffer:** We have resources available to us. We have a permanent budget and we have money that comes off cycle. To date, we've had enough resources to do the work we needed to do to get set up. We have made our case on resources and are going through the regular channels with that. That is in the government process right now. In terms of budget, I will say that we've made our case on resources, we've had enough to date and we're seeking it through proper channels.

**The Chair:** You have one minute left.

[*Translation*]

**Mrs. Marilène Gill:** I would like to ask Ms. Meyerhoffer for additional information. We have talked about the budget, but my question was two-fold.

How many people work at CORE right now? What kind of human resources do you have?

[*English*]

**Ms. Sheri Meyerhoffer:** We currently have.... We own six full-time positions, and those are filled. We also have a number of secondi. At the moment, I believe, working full time on this innovation, on the creation of CORE, there are 10.

**The Chair:** Thank you.

Now we're going to move to the NDP and Ms. McPherson for seven minutes.

**Ms. Heather McPherson (Edmonton Strathcona, NDP):** Thank you, Mr. Chair.

Thank you, Ms. Meyerhoffer, for coming today. I understand that you've worked in Alberta, and I welcome you to Alberta via my living room.

I have a few questions for you in terms of what you've been able to accomplish since the CORE was announced in 2018. You were put in place in 2019.

In 2019, my understanding was that you would be given the ability to expand your mandate within one year. What happened? Why was that not possible for you to do?

**Ms. Sheri Meyerhoffer:** When I was put in place in 2019, in May, the minister at the time indicated that he would be seeking my advice on the expansion of sectors. As you know, there was a change in government and a change of ministers, and the minister has not sought my advice on that.

**Ms. Heather McPherson:** So two years in, we now have a situation where you haven't been able to undertake any investigations to date and you have not been able to expand your mandate. Is that correct?

**Ms. Sheri Meyerhoffer:** Mr. Chair, I would like to rephrase the question. We have been in preparation and creation stage. This is very necessary for a brand new office. It's not that we haven't been able to; we realize how important it is to get this right, so we've been taking the time to create it. That's how I would respond to that.

With respect to the number of sectors, again, I think we're open to doing that in the future.

**Ms. Heather McPherson:** In your introductory comments, you said that the online portal is ready to be launched. Will that be launched in the next couple of days, next week, next month? How long until we see that become live?

• (1910)

**Ms. Sheri Meyerhoffer:** I'm using "in the coming weeks" and I am not going to be giving a particular date. I work within a large organization within the Government of Canada, and we have a number of technical matters that are still being put into place. Our operating procedures are completed, and our consultations are over, but now we have all of those very technical aspects of getting this up and running.

**Ms. Heather McPherson:** I've worked in the field quite a lot. I've seen Canadian mining companies and some of the environmental degradation and the human rights abuses that have taken place. One of my concerns is this: Having a portal is one thing, but how exactly are populations around the world learning about the portal where they can share this information?

**Ms. Sheri Meyerhoffer:** I'm sorry. Can I hear your question again?

**Ms. Heather McPherson:** I just asked how people around the world who are victims of violence from Canadian mining companies would actually tell you about that. How do they know about the online portal that has not been launched but will soon, within weeks, be launched?

**Ms. Sheri Meyerhoffer:** We're well aware of the need to communicate the role and purpose of our office and the ways in which people can communicate to us. We're spreading the word and raising awareness through various channels. We have—

**Ms. Heather McPherson:** What are those various channels?

**Ms. Sheri Meyerhoffer:** We have the co-operation of government in spreading the word overseas, and we're planning to raise awareness through our many stakeholders. We would be doing that through civil society organizations working overseas, trade commissions overseas, United Nations networks overseas, our international partners and other networks.

**Ms. Heather McPherson:** Thank you.

One of the things you talked about was the idea of... I know that in 2018, when the ombudsperson was announced, it was announced to great fanfare within the sector. Many of us were extremely excited, because we were told that you would have the ability to compel testimony. That did not end up happening. You do not have the ability to compel testimony.

What is the plan for when you investigate a company and it is not co-operative or interested in sharing its testimony or evidence with you? What will your next step be in that case?

**Ms. Sheri Meyerhoffer:** It's true that the CORE doesn't currently have the power to compel witnesses or documents, but our review powers are unique and a strength in Canada's responsible business conduct mechanisms. We have, as I said before, a range of tools at our disposal, and we can initiate reviews and conduct investigations. If a company—

**Ms. Heather McPherson:** If they won't share their information, how do you do that?

**Ms. Sheri Meyerhoffer:** There are other ways of getting information, and we will be conducting investigations. We will be gathering information from all sources. If they don't co-operate, it's to their detriment because we will be coming to a finding of fact based on the information that we collect.

**Ms. Heather McPherson:** Can you explain to me how this is different from what we've had in previous governments? We had a corporate social responsibility counsellor. We have the NCP. How is this different? What can you do that previous governments couldn't do?

**Ms. Sheri Meyerhoffer:** The CSR counsellor was embedded within the Department of Global Affairs and International Trade. There was a counsellor and, I believe, one other employee. We have a much larger human resources foundation. We are an ombudsperson office, and an ombudsperson office carries with it a number of internationally recognized attributes, one being that it's arm's length and independent from the department. We have that.

The NCP does mediation. However, not only can we engage in mediation, but we can undertake collaborative and independent fact-finding. We're required to file public reports. Under our mandate, we have to file reports.

We're also empowered to make recommendations to the minister regarding potential remedial measures. Remedial measures are what is under our order in council under the UN guiding principles on business and human rights. We are guided by that. The NCP is under the OECD guidelines for multinational enterprises. We have the additional...with the remedial.

There is a lot more breadth there than what we've seen under the CSR counsellor or under the NCP.

• (1915)

**Ms. Heather McPherson:** Would you say that you're an independent—

**The Chair:** That's your time, Ms. McPherson. Thank you.

**Ms. Heather McPherson:** Thank you.

**The Chair:** Colleagues, we're going to be moving into a second round. It's going to be a strict two minutes for each member to ask questions before we move on to the next panel.

We're going to start with Ms. Vandenberg, from the Liberals, for two minutes.

**Ms. Anita Vandenberg (Ottawa West—Nepean, Lib.):** Thank you very much.

I want to thank you, Ms. Meyerhoffer, for being here today.

Ten years ago, I was working in the Democratic Republic of Congo. I was working with women's groups there who were working on a declaration about sexual violence in DRC. All of the women pointed to the mining sectors as the root cause—whether it was directly or indirectly—because of the armed conflicts over resource-rich lands.

When you begin to do your intake with your online portal, and also in the advice you give to companies, how do you anticipate that what you're doing is going to be different from what would have been available back in 2011? This is in terms of when abuses are occurring by Canadian companies directly, and also in terms of helping Canadian companies see the warning signs and be able to do the prevention needed to make sure that their activities don't result in indirect human rights abuses.

**Ms. Sheri Meyerhoffer:** We do have a lot of tools at our disposal. Half of them are preventative. That's the advice to companies. We have already been giving advice to companies on COVID and things to watch out for, like the dos and the don'ts of this. We'll be able to do those kinds of things with respect to conflict areas going forward. That's the preventative side.

Then there's working with them on mediation to help them if something is bubbling up. If nothing has happened, that's early intervention. Then there is helping them resolve an issue once it has started.

All of that is available.

**The Chair:** You have about 20 seconds, unless you want to make a statement.

**Ms. Anita Vandenberg:** That's okay.

**The Chair:** We're going to move over to the Conservatives and Mr. Reid, for two minutes.

**Mr. Scott Reid (Lanark—Frontenac—Kingston, CPC):** Thank you, Mr. Chair.

Thank you to our witness for being here today. We're glad to have you with our subcommittee.

You say “provide advice” and you've referred to this by the term “know and show”. What kind of advice do you provide? How would this be useful either to those who are afraid of having their rights abused or, presumably, to companies that are anxious to remain compliant with both international rules and with the rules that you set out?

**Ms. Sheri Meyerhoffer:** There are many ways we can provide advice to companies. For the greatest impact, we wouldn't be providing advice to individual companies. They have other resources to go to for individual advice. The CORE would be looking at.... For instance, I gave an example of COVID and the new strains on business that would end up resulting in human rights abuses. We point those out to companies and indicate that they should be aware of these pitfalls. We show them what they can do to take action against it. That's the kind of advice. We would provide that advice on our website and very broadly to companies.

We can do own-initiated reviews, which is one of the tools I didn't mention. We can initiate our own review, an ombud-initiated review. That is something we can look at if there is a systemic issue out there that all companies need. We can do an investigation on that and let companies know about it.

**Mr. Scott Reid:** The advice you're giving is not about rules that you've developed yourself, but rather you're providing advice about rules that come from elsewhere.

I have to ask the obvious question. Why not just go to those other sources rather than to you? What value added are you providing in that regard?

**Ms. Sheri Meyerhoffer:** Yes, that's right. We can't make any new rules, so, absolutely, we're looking at the rules that already exist.

We're an option. We're a non-traditional option available to companies. There are other places for them to go. Maybe companies will choose to use other sources for advice for particular things. It may be that we, in some circumstances, would be the best place for them to come.

**Mr. Scott Reid:** Thank you.

**The Chair:** Thank you.

We will move over to the Bloc and Madame Gill, for two minutes, please.

[*Translation*]

**Mrs. Marilène Gill:** Thank you, Mr. Chair.

Ms. Meyerhoffer, I carefully listened to everything you said.

Your mandate is very broad: advising companies, providing mediation and receiving complaints. You talked about the portal where people will be able to file complaints.

I remember that, in 2019, Minister Carr commissioned an external legal review to determine the best way to provide the ombudsman with sufficient tools to carry out credible and effective investigations on presumed human rights violations. The report concluded that, without enforcement powers, CORE would not be as effective as it should be.

What do you think about that report's findings?

• (1920)

[*English*]

**Ms. Sheri Meyerhoffer:** CORE does not currently have the power to compel witnesses and documents. As I mentioned, our review powers are unique, and they do strengthen Canada's responsible business conduct mechanisms.

I'm confident, as I said, that we have what we need to do on our complaint portal now. Of course, that may change down the road. We can re-evaluate what we need at that time, and I'm open to that re-evaluation and assessment.

**The Chair:** We'll move to Ms. McPherson, for two minutes, to conclude this panel.

**Ms. Heather McPherson:** Thank you, Mr. Chair.

Ms. Meyerhoffer, I just want to clarify. I tabled a petition, because people within the sector and people across the country were understandably outraged when the position of the CORE ombudsperson was announced. You did not have the ability to compel testimony, and you did not have independence.

Do you feel that you could do your job better if you had the ability to compel testimony, and if you were actually a truly independent office?

**Ms. Sheri Meyerhoffer:** I support any measure to improve human rights protections as part of responsible business conduct. At the same time, as I said, I'm confident I can do the job that I've been given, with the mandate that I've been given, and make a real positive impact. I am definitely open to having advancements in the future.

**Ms. Heather McPherson:** One of the advancements we could look at.... We know that we are developing a feminist foreign policy. We have a feminist international assistance policy. This position has an important role in terms of the sustainable development goals, which we've also signed on to. All of those things call for equitable access to justice. When you don't have the ability to compel testimony, when you don't have the ability to actually hold Canadian companies to account, that does make me quite worried, of course.

In terms of human rights due diligence legislation, have you considered how you could make that mandatory as part of your mandate, and how you could, in fact, have that in place, so that you could be holding companies accountable before they undertake human rights abuses and environmental degradation?

**Ms. Sheri Meyerhoffer:** We support mandatory human rights due diligence. I support it. It's the right thing to do. Globally, it's going that way. There would need to be discussions about how CORE would take that on, but we're for it.

**The Chair:** Thank you very much, Ms. Meyerhoffer. Thank you for your testimony and answers to the many questions. We appreciate it for our CORE study.

This will conclude our first panel.

On our second panel, from the Canadian Network on Corporate Accountability, we have Ms. Emily Dwyer, coordinator.

Ms. Dwyer, you have five minutes for your opening statement.

• (1925)

**Ms. Emily Dwyer (Coordinator, Canadian Network on Corporate Accountability):** Good evening, everyone.

Thank you very much for the invitation to be here and for your interest in studying this vital issue.

I coordinate the Canadian Network on Corporate Accountability, the CNCA. We were formed in 2005. We bring together 39 organizations from diverse sectors across Canada, which collectively represent the voices of millions of Canadians from coast to coast.

We are calling for urgent action by the Government of Canada to address human rights and environmental abuses by Canadian companies operating overseas.

Our network was vital to the government's creation of the Canadian ombudsperson for responsible enterprise. In 2016, we published model legislation that was based on years of engagement with impacted communities and extensive research, and vetted by subject matter experts.

We engaged in good faith with the Government of Canada to help build a best-in-class model based on specific commitments critical to the future of the office's credibility. We stood with Minister Champagne when he made the announcement of the CORE in 2018.

It is telling that today Canadian civil society, human rights organizations and labour unions are not standing up in support of this version of the CORE. To the contrary, we have had to issue warnings to impacted communities to approach this office with caution, if at all. We should be singing this office's praises, and there's a reason that we're not.

For years, hundreds of thousands of Canadians, organizations from diverse sectors and multiple United Nations bodies have called on Canada to implement effective mechanisms to prevent and remedy Canadian corporate human rights abuses overseas. The kinds of abuses we're talking about include threats, killings, bodily harm, gang rape, unsafe and exploitative working conditions,

forced labour, failure to respect the rights of indigenous peoples and women, and serious environmental damage.

Instead of implementing effective mechanisms, Canada has relied on voluntary approaches, providing advice to companies about the expectation that they respect human rights, and sometimes offering mediation and mediation approaches, like joint fact-finding.

The experience with Canada's toothless mechanisms—the CSR counsellor's office from 2009 and Canada's national contact point for the OECD guidelines since 2000—demonstrates that this approach has not worked. When the CSR counsellor's office was closed in 2018, it had not resolved a single case. Canada's NCP, which is still in operation today, has also failed to investigate, prevent or remedy harm by Canadian companies operating overseas.

When it comes to effectiveness, the version of the CORE that we see today is not materially different from these failed offices. Without independent investigatory powers, the CORE will be equally unfit for purpose. Investigatory powers are the foundation of an effective ombudsperson's office, upon which the rest of the office's functions depend. Key information that's crucial to investigations is often held exclusively by companies, and it will not be offered voluntarily.

I would like to put clearly on the committee record that what I'm suggesting here is not a new ask, not a request to reform the CORE right before it opens its doors; it's a request to give effect to what the Government of Canada explicitly and publicly committed to in 2018.

From the Government of Canada website at the time of that announcement, I quote: “The Government [of Canada] is committed to ensuring that the Ombudsperson has all the tools required to ensure compliance with information requests—including the compelling of witnesses and documents”.

It's also a request to give the CORE the absolute minimum powers needed to do its job: the power to compel documents and testimony. These are powers that the Government of Canada's own external legal review, the McIsaac report, which was commissioned by Minister Carr in the spring of 2019—which I hope to table for this committee—confirms are needed and are within the federal government's authority to mandate. That report concludes that the federal government can provide the CORE with these powers and the office's effectiveness would be compromised without them.

It is urgent that communities and workers impacted by Canadian companies operating overseas have access to effective grievance mechanisms in Canada, particularly as there is often nowhere else for them to seek redress for harm.

We hope and expect that the current study at the subcommittee will lead Canada to fulfill its commitments, honour Canada's international human rights obligations, and empower the CORE to independently investigate.

I look forward to the opportunity to answer your questions and provide further information now.

• (1930)

**The Chair:** That was right on time. Perfect. Thank you, Ms. Dwyer.

Now we're going to move to members for questions.

We will commence with Ms. Khalid, from the Liberals, for seven minutes.

**Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.):** Thank you very much, Chair. I appreciate that.

Thank you, Ms. Dwyer, for coming today.

You mentioned that the objective that was anticipated by you and many others from this organization, from CORE, and other renditions of it in the past hasn't been achieved. Obviously, this has been quite a long-standing issue as we deal with Canadian corporations going abroad.

What do you think are some of the challenges that the government faces in creating the kind of framework that you've advocated for in the past through the advisory body?

**Ms. Emily Dwyer:** What are the challenges the government faces in terms of fulfilling its explicit commitments to give the office the basic minimum powers it needs to investigate? Is that what you're asking? I'm sorry if I didn't entirely understand the question.

**Ms. Iqra Khalid:** I'll repeat my question. You mentioned that what you had advocated for over the past number of years has not been fulfilled through what is the current operation and operating mechanism of CORE, as well as any past renditions of a similar kind of framework to address these issues that you've raised in the past. In your opinion, what are some of the challenges that the Government of Canada, no matter which government it is, faces in fulfilling or providing specifically what you're asking for in terms of the mandate for an organization like CORE?

**Ms. Emily Dwyer:** It's somewhat difficult for me to answer in the place of government, but I can share with you my observations based on the years of engagement with government, both the previous and the current.

The CNCA published model legislation that provided a blueprint for this office. We commissioned and produced memos, legal memoranda and expert opinion. We helped facilitate—

**Ms. Iqra Khalid:** Sorry, I'm going to cut you off there. I'm specifically asking, as a corporation goes out to perform whatever business it conducts in other states, other countries, specifically what challenges does the Government of Canada have in terms of...? Is there a balance issue between industry and indigenous is-

...sues within the frameworks of other countries? Is the issue labour laws within other countries or disputes with labour? What kinds of specific challenges, in your opinion, would a government like the Government of Canada have in establishing that framework with teeth, as you put it?

**Ms. Emily Dwyer:** There is a global and international accountability gap when it comes to business and human rights, when it comes to holding companies accountable. Our international framework is based on the obligations of nation-states and doesn't easily apply to corporations. Around the world, host countries where companies are operating sometimes don't have laws that protect human rights or the environment, or those laws aren't enforced vis-à-vis multinational companies.

What is needed is for Canada to take its place in that international accountability triangle to look at holding companies accountable and ensuring that communities have access to remedy here in Canada for the impacts of Canadian companies operating overseas. What is entirely within the Canadian government's authority is to require companies to respect human rights around the world—not simply to expect them to, but to require them to and to create mechanisms that ensure that impacted communities and workers have access to remedy in Canada.

• (1935)

**Ms. Iqra Khalid:** Can you cite or give some examples of other organizations that possess the enforcement powers that you're looking for in CORE?

**Ms. Emily Dwyer:** Yes. CNCA's model legislation for an ombudsperson's office was based on the examination of existing ombudspersons' offices across Canada. The powers to compel documents and testimony are the norm in these offices and in analogous offices, things like the Privacy Commissioner, the Information Commissioner and so on.

**Ms. Iqra Khalid:** Sorry, my apologies. Let me clarify. Is there an international framework or a framework that exists within another country, similar to Canada perhaps, that has a similar kind of office set up for corporate accountability?

**Ms. Emily Dwyer:** No.

When Canada announced the Canadian Ombudsperson for Responsible Enterprise, they announced that it would be the best in class, the first of its kind in the world. It actually isn't. When you look at what we have right now, because of the absence of those investigatory powers, it's actually quite dissimilar from the national contact point, where national contact points in other countries do investigate. So the CORE, or the idea of... Another example of this kind of body that can compel documents and testimony internationally does not exist.

One point to quickly clarify is that it is based on other Canadian offices where this is the norm, and the power to compel documents and testimony would be vis-à-vis the Canadian company or documents under their control, not applicable to overseas companies and so on.

**Ms. Iqra Khalid:** Thank you very much.

**The Chair:** Thank you.

Now we're going to move to the Conservatives, with Mr. Reid, for seven minutes.

**Mr. Scott Reid:** Thank you, Mr. Chair.

Ms. Dwyer, in your response to Ms. Khalid's final question, it sounded to me like you were contradicting yourself. You said on the one hand that we aren't best in class. You said other countries have investigatory powers in their parallel bodies, but then you also said that nobody has the ability to compel testimony or the turning over of documents. Maybe I misunderstood, but it sounds like there's a contradiction there. Could you clarify that?

**Ms. Emily Dwyer:** Sorry, I can clarify.

In Canada, ombudspersons' offices often.... It's commonplace to have the power to compel documents and testimony. What I understood the question from MP Khalid to be was whether there was an international ombudsperson's office looking at this as a human rights issue that had the power to compel documents and testimony, and that kind of example does not exist.

Where I was clarifying was that the ombudsperson's office, the CORE that we have today, does not have those powers. It has the power to offer mediation, to undertake reviews. It doesn't have robust powers to investigate, like those that were committed to in 2018.

**Mr. Scott Reid:** Okay, that's very helpful. Thank you.

You mentioned that your organization had done draft legislation and had some position papers. I wonder if after this meeting is over, you could just pass those on to our clerk. I guess I'm really asking the clerk to contact you to get access to those. That allows us to treat them as having been entered into testimony.

**Ms. Emily Dwyer:** We'd be happy to do so.

**Mr. Scott Reid:** Thank you. That's very helpful.

You said you caution stakeholders to be careful regarding approaching the ombudsperson, and it sounds to me like you think it's actually in some cases—I assume, for people who are outside of Canada—unsafe to do so. Perhaps I misunderstood you. Could you expand on that?

**Ms. Emily Dwyer:** Whenever impacted communities or human rights defenders launch an international complaint or speak out against corporate abuse, they face the possibility of risks and retaliation. In an examination of 250 specific instances filed at the national contact points around the world in a study looking at complaints since 2006, it was documented that in 25% of those cases, those bringing complaints faced retaliation for doing so, and over half of those retaliation cases were linked to mining, oil and [Technical difficulty—Editor] sector cases.

• (1940)

**Mr. Scott Reid:** I see your point very clearly. Is there a security issue? Presumably the ombudsperson would not be turning this information over and would have a duty to anonymize the information. Is it the case that inadequate protections exist at this point for someone who has come forward?

If you don't mind, I have one more question about this. Typically, I think it won't be the exploited person; it will be some form of human rights organization intermediary that would be doing this. What are the appropriate remedies to make sure that one can safely and confidently approach the ombudsperson's office? That should be an easy fix.

**Ms. Emily Dwyer:** In finishing my point around the risk of retaliation, what impacted communities.... The assessment they will need to be making in bringing a complaint to any office is, given the risk of retaliation, is there a possibility of reward? Is there a possibility of remedy? Is it worth the risk in bringing a complaint?

Based on the experience we have with very similar offices in the past—the CSR counsellor's office, the national contact point—that didn't have the power to investigate, that didn't have the power to compel documents and testimony, that relied on companies voluntarily participating, the result there for impacted communities was no remedy, a waste of time and resources, and often a situation where they were put in more of a risk after bringing a complaint than before they came.

Our analysis is that exactly the same will happen with this office, the way it is currently structured.

**Mr. Scott Reid:** I think of the famous example of Eleanor Roosevelt travelling through Russia and being approached by a prisoner there who presumably would have faced retaliation for having spoken to her. Despite the fact that she was well-meaning, she had no capacity to help in that situation.

What about some of the remedies that exist through our securities rules? For a publicly traded Canadian company—a company that trades on the Canadian stock exchange—to issue new shares or float a bond issue, if it is working overseas in the mining sector, it has to meet certain performance standards. It has to, for example, ensure that it's achieving certain labour standards in conformity with the ILO rules. It has to make sure it conforms with certain environmental standards, such as the use of properly maintained tailing ponds and reforestation efforts appropriate to the environment in place in that area, and there are a number of other such standards.

These are enforced by Canadian professionals who have professional standards to live up to, and if they don't report accurately, they'll lose their professional accreditations, so they have a very strong interest in doing that. If those reports aren't filed with the securities commissions, then it's impossible to refinance that company, giving a very strong incentive to comply with the rules.

Does this model, in your opinion, have any merit, and could it be expanded to cover some of the other areas you're describing, such as indigenous land claim issues?

**Ms. Emily Dwyer:** What is really needed is for the Government of Canada to act on its commitment to provide an office that can provide an oversight and investigation role—an independent, arm's-length body that has the powers to do so.

The rules around reporting at securities commissions.... I don't have the report at my fingertips right now, so I don't want to try to quote it, but I will send it to you afterwards. It's around the evidence of lack of adequate reporting, even under those rules. The evidence is that Canadian companies continue to be implicated in serious abuses in every corner of the world.

**Mr. Scott Reid:** Okay.

I think I have time for one more question.

**The Chair:** Be very quick.

**Mr. Scott Reid:** I'll be very quick.

You talked earlier about independent investigatory powers. Is that, in your mind, simply a synonym for power to compel testimony and the production of documents, or does it have some additional meaning?

**The Chair:** You have 20 seconds, please.

**Ms. Emily Dwyer:** It is an absolutely fundamental element of independent investigatory powers for this kind of office to have the power to compel documents and testimony. Often, really key information is in the hands of companies, and without the ability to require companies to provide those documents and testimony, it simply won't be part of the investigation, and the rest of the office will crumble. You can't make effective recommendations without information.

• (1945)

**The Chair:** Thank you.

We're moving to the Bloc now.

Monsieur Brunelle-Duceppe, you have seven minutes.

[*Translation*]

**Mr. Alexis Brunelle-Duceppe (Lac-Saint-Jean, BQ):** Thank you, Mr. Chair.

Good evening, everyone.

Ms. Dwyer, thank you very much for joining us this evening.

Your and your colleagues' activism helps shed light on the many human rights violations committed by businesses that are tarnishing our reputation and our values.

Ms. Meyerhoffer said she was certain of having enough powers and resources. However, only a few minutes ago, she said she had fewer than 10 employees working for her. What's more, she did not specify what her budget is. Am I crazy not to be reassured?

I did a bit of research very quickly before putting questions to you. There are 200 mining companies [*technical difficulties*].

**Ms. Emily Dwyer:** You were muted, Mr. Brunelle-Duceppe.

**Mr. Alexis Brunelle-Duceppe:** Did you hear the beginning of what I said?

**Ms. Emily Dwyer:** I heard the beginning only.

**Mr. Alexis Brunelle-Duceppe:** Okay.

Earlier, Ms. Meyerhoffer told us she was certain she had enough powers and resources. However, just a few minutes ago, she said that she had fewer than 10 people working for her, and she did not specify what her budget is. Am I right to be lacking reassurance in that respect? According to some quick research I did, there are 200 Canadian mining companies in Mexico alone.

How do you think we can believe that we have sufficient resources?

**Ms. Emily Dwyer:** I think we will need to see who will use this office with its current powers of investigation. Since 2014, the Office of the Corporate Social Responsibility Counsellor and the national contact point had the same recommendation powers to take away the Canadian government's support from companies. This kind of an office should be comparable to the Office of the Privacy Commissioner or the Office of the Information Commissioner in terms of the number of employees and budget.

I also think it would be important to look into the fact that, two years after its creation and despite its budget and its 10 current employees, the office has not conducted any investigations and has received no request for investigations. That's very surprising, and I don't think this is a good use of resources.

**Mr. Alexis Brunelle-Duceppe:** You are talking about the ombudsman's power to investigate. That power is essential, but how will it change things in the context of the many ongoing violations? What would change if we really had that power?

**Ms. Emily Dwyer:** Allow me to answer in English.

**Mr. Alexis Brunelle-Duceppe:** I have no objection, Ms. Dwyer, since we have interpretation services.

[*English*]

**Ms. Emily Dwyer:** The power to investigate is absolutely fundamental to this position. If you look at what an ombudsperson's office does, it does not issue binding fines; it does not send anyone to jail; it does not make any findings of guilt. What it does is independently investigate the facts and make findings of fact to help determine what happened, who was involved and how to prevent and remedy those harms.

If you can't get at the basic underlying facts of the situation, then you can't make public reports that make findings of fact. You can't make recommendations that are tailored to the facts of the situation to help prevent these things from happening in the future, and you can't adequately make recommendations for future law and policy reform to help prevent this or to adequately remedy it. Without the power to investigate, the office is entirely dependent on companies under investigation—companies accused of serious human rights abuses—voluntarily sharing information that may implicate them in abuses.

Impacted communities that our members have worked with for over a decade are looking for prevention of harm and remedy, to be sure, but they're also looking for acknowledgement of what they have suffered and a commitment for things to change in the future.

● (1950)

**The Chair:** You have 30 seconds.

[*Translation*]

**Mr. Alexis Brunelle-Duceppe:** Ms. Meyerhoffer already said that it would be useful to have enforcement powers, but that the office can still have an impact without them. She mentioned the power to recommend that government support be withdrawn.

Do you think that power is sufficient?

[*English*]

**Ms. Emily Dwyer:** The office's—

**The Chair:** You're going to have to hold on to that. I'm sorry.

We're now moving to the next round and Ms. McPherson for seven minutes.

**Ms. Heather McPherson:** Thank you, Mr. Chair.

I think we can probably get to that answer, but I wanted to very quickly thank Ms. Dwyer for joining us today. It's incredibly important to hear your perspective, Ms. Dwyer.

I want to walk through a bit of a timeline with you, if I may. In 2015, we were told during the run-up to the election that this position would be put in place. Obviously, it has been decades since we've been asking for a CORE ombudsperson with teeth and the ability to compel testimony and documents. In 2018, we actually had the announcement from Minister Carr. We get an ombudsperson in 2019, which is devastatingly disappointing because we know they don't have the ability to do the job they need to do, and it's now 2021. Almost three years have gone by, and there have been zero investigations.

The ombudsperson spoke to us earlier today about how there was a deep need to consult. Do you think that is a reasonable timeline, considering the urgency of some of the human rights abuses that we've seen by Canadian mining companies abroad?

**Ms. Emily Dwyer:** It is absolutely urgent for impacted communities and workers around the world to have access to an effective mechanism to help redress and remedy harms they have suffered. As I mentioned before, they're really serious abuses.

It is a shame on Canada's international reputation. We've had multiple United Nations bodies tell Canada that we're not living up

to our international human rights commitments because we don't have an independent body to investigate.

Canada announced this in 2018 and received international attention. It is dragging its feet and not fulfilling that commitment, while globally we're seeing great momentum towards imposing legislation that requires companies to prevent human rights abuses throughout their global operations and supply chains and that provides them with access to remedies. Throughout Europe, we're seeing legislation in France and recently a commitment in Germany and at the European Commission around mandatory human rights due diligence legislation.

The kinds of abuses people are suffering are severe, and we've had this office before. When Ms. Meyerhoffer was speaking about this office being new and that being the requirement for needing to take all of this time to consult, one really asks, what is new about it? If what it is about is more budget, why did the government not simply increase the budget of the CSR counsellor's office or the budget of the national contact point, if all it was going to do was create another voluntary dispute resolution mechanism that puts people more at risk and doesn't help advance Canada's international human rights obligations?

● (1955)

**Ms. Heather McPherson:** This is one of the things I was going to ask you about. I have stood on the ground in Nicaragua and have seen the results of Canadian mining companies poisoning aquifers. I have seen sick children from Canadian mining companies. I have listened to the attacks. It blows my mind that we still don't have this ombudsperson.

I was going to ask you about the reputation of Canadians and how it has suffered, but I think you've addressed that.

Why didn't we get the ombudsperson we were promised? Why isn't the government living up to the promise they made to Canadians in 2015 and again in 2018? What happened?

**Ms. Emily Dwyer:** What appears to be the case is that Canada announced an office that would be effective, and immediately the mining industry engaged in a lobby campaign to say that they would not support this.



**Ms. Heather McPherson:** Ultimately, in your opinion, the lobby of the mining companies got into the government and lobbied successfully against any restrictions on their ability to do whatever they want around the world without clear oversight in place.

**Ms. Emily Dwyer:** It is clear in my mind that the government caved in to mining industry pressure and gutted the office before it was even able to start.

**Ms. Heather McPherson:** Speaking of gutting the office, my colleague Mr. Brunelle-Duceppe asked you a question just a few moments ago about the ombudsperson speaking about how she did have the ability to do her job, she did have the ability to make an impact. I think you didn't get an opportunity to answer him, but I'd love to hear your answer on what you think she's able to accomplish in terms of her investigative powers.

**Ms. Emily Dwyer:** I think it's telling that when you asked Ms. Meyerhoffer how she could investigate, how she would respond if companies under investigation did not voluntarily provide information crucial to an investigation, she was unable to answer that question. Quite frankly, it does not seem there is any detail on the most crucial and important function of an ombudsperson's office.

In terms of what she can do without the power to investigate, it remains primarily a mediation-based approach and the ability to undertake a review, potentially without access to necessary information. How can you publish a report with your findings of an investigation if you don't have access to key information? At the end you can say, "Here are the allegations that I've heard, but I haven't been able to verify X, Y and Z because I haven't had access to the information I need."

It's also telling that other similar bodies in Canada, other ombudspersons' offices, have the power to compel documents and testimony and have the power for search and seizure.

**The Chair:** You only have 15 seconds, Mr. McPherson.

We're going to move to the second round now and—

**Ms. Heather McPherson:** I'll take my 15 seconds just to thank the witness and to highlight once again how important it is that this work be done, and to highlight again that it is all well within the power of the government to implement this ombudsperson with the powers they had promised.

**The Chair:** Now we'll move to the second round. This will be a short round. It will be two minutes for each member for questions, just as with the previous witness.

We'll start with the Liberals.

Ms. O'Connell, you have two minutes.

**Ms. Jennifer O'Connell:** Thank you, Mr. Chair.

Thank you, Ms. Dwyer, for being here.

With only two minutes, I'll try to get right into it.

Following up on Ms. Khalid's question.... The U.S. was seen as a jurisdiction that had some success in this area, but they were using the Alien Tort Statute, which was an 18th century law. It had been challenged in the Supreme Court, and ultimately they lost the ability to actually pursue human rights claims on U.S. corporations.

Given the legal challenges, and seeing that the U.S. actually did have a law, with cases where companies were held and had financial findings against them and individuals and it has—

• (2000)

[Translation]

**Mr. Alexis Brunelle-Duceppe:** I apologize, Mr. Chair.

I think there is a problem with the sound. It is difficult for our interpreters. It is late, and they are doing amazing work. We would not want things to be too difficult for them.

[English]

**The Chair:** Is anybody else having sound problems like Mr. Brunelle-Duceppe?

Is it just you, Mr. Brunelle-Duceppe?

[Translation]

**Mr. Alexis Brunelle-Duceppe:** No, it was an interpretation problem, Mr. Chair.

[English]

**The Chair:** Okay. I was getting interpretation. Were you not getting interpretation?

[Translation]

**Mr. Alexis Brunelle-Duceppe:** I was told there was an interpretation problem. It is up to the interpreters to tell you, Mr. Chair. I just heard that the sound was not good enough for interpreting at some point.

[English]

**The Chair:** You heard that from whom? I didn't hear that.

[Translation]

**Mr. Alexis Brunelle-Duceppe:** I heard that from the interpreter who was speaking to me.

[English]

**The Chair:** Did the interpreter say it to you, Mr. Brunelle-Duceppe? I don't know. I didn't hear.

[Translation]

**Mr. Alexis Brunelle-Duceppe:** Yes, the interpreter told me so earlier, but everything is okay now.

[English]

**The Chair:** Mr. Clerk, can you just clarify? Are interpreters speaking to members about how they are getting the interpretation?

**The Clerk:** Yes. If the sound quality, either due to connection or due to the way the witness is speaking, is too poor for the interpreters to interpret, they will indicate that directly through the interpretation channel.

My suggestion to the witness would be to speak a bit more slowly and clearly. Hopefully, that will allow interpretation to keep up.

**The Chair:** Thank you.

**Ms. Jennifer O'Connell:** It was me. It wasn't the witness.

**The Chair:** You have one minute, Ms. O'Connell.

Ms. Dwyer, I did stop your time.

**Ms. Jennifer O'Connell:** I'm sorry. I'd like to finish my question from before being interrupted.

The U.S. has been challenged and has not been able to implement the ability to compel outside of the court system, and even that is in challenge. Can you point to anywhere around the world...that has been able to compel this information, especially outside a judicial setting?

**Ms. Emily Dwyer:** The Alien Tort Statute decision had nothing to do with the compelling of documents and testimony. It had to do with interpretation of application to business and human rights. That's just to say it's not related to the compelling of documents and testimony.

In terms of the legitimacy of compelling documents and testimony, these are commonplace, normal practices. All of the provincial ombudspersons' offices in Canada, to my knowledge, have this power. Analogous offices across Canada do as well.

One thing to note—

**Ms. Jennifer O'Connell:** I'm sorry to interrupt.

To go into another jurisdiction—

**The Chair:** I'm sorry, Ms. O'Connell.

We have to move to Mr. Chiu now for two minutes.

**Mr. Kenny Chiu:** Thank you, Mr. Chair.

I actually have a question similar to Ms. O'Connell's.

I'm interested to see what the ideal situation would be, given that, unlike other ombudspersons' offices, the CORE would require.... If we are to have full investigative power, we would have jurisdictional conflict with the host countries. For example, we would be required to have the ability to compel documents and witnesses, etc.

How would you respond to that, Ms. Dwyer?

**Ms. Emily Dwyer:** The power to compel documents and testimony is vis-à-vis the Canadian company, Canadians and documents under Canadian control. This means that an order for production or an order to provide testimony would not be applicable vis-à-vis an overseas company or someone overseas.

**Mr. Kenny Chiu:** I understand.

To have a full investigation to see all sides of the picture, you would require access. Therefore, you would need the power to compel documents and also witnesses from perhaps overseas in the host country. Is that correct?

**Ms. Emily Dwyer:** The Government of Canada could have, on our advice, authorized the ombudsperson to enter into mutual legal assistance agreements and letters rogatory. You can do desk research and site visits, etc.

The power to compel documents and testimony would be vis-à-vis the companies in Canada, which means that there are some circumstances in which an investigation would not be able to be completed if the information that's being looked for is being held exclusively overseas. Having the power to compel documents and testimony vis-à-vis Canadian companies would go a very long way to getting that information.

● (2005)

**Mr. Kenny Chiu:** Thank you.

**The Chair:** Thank you.

We're moving over to the Bloc.

We have Mr. Brunelle-Duceppe for two minutes.

[*Translation*]

**Mr. Alexis Brunelle-Duceppe:** Thank you very much.

This may be my last comment.

Ms. Dwyer, Ms. Meyerhoffer talked earlier about a portal where human rights abuses would be denounced. However, she was unable to tell us with much conviction about the ability of the Office of the Canadian Ombudsperson for Responsible Enterprise to give it a broad scope. I don't think it is enough to have a website in Spanish.

Could you give us your opinion on how people should be able to report such abuses to the office?

[*English*]

**Ms. Emily Dwyer:** You should be able to bring complaints in person, via email or paper, or via partner organizations, etc.

[*Translation*]

**Mr. Alexis Brunelle-Duceppe:** Is this not a glaring problem?

It all often starts with a denunciation. If people are unable to denounce abuse, it will be difficult to conduct an investigation or to examine certain cases in depth.

Don't you think that's one of the problems?

[English]

**Ms. Emily Dwyer:** I have not seen the CORE web portal and how they're expecting to accept complaints, so I can't comment on it specifically. For now, our main concern is that even once you've gotten through the admissibility stage, the office doesn't seem to have powers to really do anything meaningful to respond to impacted communities once they get there.

[Translation]

**Mr. Alexis Brunelle-Duceppe:** I understand.

Do you have one last message to share with us in 15 seconds?

[English]

**Ms. Emily Dwyer:** One of the points I would really like to emphasize is that the Government of Canada's own research, its own external legal review, confirms that it's within the federal government's authority to grant the powers to compel documents and testimony, and that those are needed to be effective.

I will table that report with the committee.

**The Chair:** Thank you, Ms. Dwyer.

We're moving now, for two minutes, to Ms. McPherson.

**Ms. Heather McPherson:** Thank you, Mr. Chair.

Again, thank you to the witness. This has been very interesting.

One of the things I have spent a lot of time working on prior to being elected is the sustainable development goals. We know that sustainable development goal 16.3 is "equal access to justice". We know that sustainable development goal 16.6 is the "effective, accountable and transparent institutions" for that justice.

Can you talk a bit about what you would like to see with regard to this ombudsperson position? We talked with the ombudsperson

earlier today about human rights due diligence legislation. We talked about what we'd like to see this ombudsperson have, the ability to compel. What could be accomplished? What could we achieve if we had the expanded role for this position, if it had the ability to do what it could?

**Ms. Emily Dwyer:** One would hope that an effective ombudsperson's office would have the confidence of impacted communities and workers to be able to come and bring complaints and seek redress, that the ombudsperson's office would look into those cases and would be able to establish and see patterns of harm, patterns of concern, and make tailored recommendations not only to prevent harm, but also to remedy it, and recommendations to the Government of Canada in terms of law and policy reform in the future so that there are no continuing complaints 10 and 15 years from now.

In 2005, the foreign affairs subcommittee studied this issue and made recommendations that have still not been implemented. Impacted communities have been waiting eons for the Canadian government to do something meaningful. We finally got there in 2018, and it is a shame that this commitment is being rolled back now and that once again we're seeing that the Government of Canada is turning its back on impacted communities and workers who desperately need a place to go.

● (2010)

**The Chair:** Ms. Dwyer, thank you very much for your testimony. That will conclude this panel.

Members, we will now suspend and come back in camera. Thank you.

[Proceedings continue in camera]





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