



FREQUENTLY ASKED QUESTIONS (FAQS): CORPORATE ACCOUNTABILITY

WHAT ARE MULTINATIONAL COMPANIES?

Multinational companies operate in more than one country. A multinational is based in a 'home' state and has foreign operations in one or more 'host' states. Multinationals commonly run their foreign operations through subsidiaries. A subsidiary is a company registered in the host state. The multinational is often referred to as the 'parent' company.

Take the example of an oil company that is incorporated in Alberta. It owns and controls a Colombian company that operates in that country. The company's home state is Canada and its host state is Colombia. The Albertan company is the parent and the Colombian company is its subsidiary.

WHAT IS THE PROBLEM WITH MULTINATIONAL COMPANIES?

It is difficult to hold multinational companies to account when they cause environmental damage or commit human rights abuse overseas. Host state governments are often unable or unwilling to regulate multinational companies' subsidiaries. In addition, because the law treats parent companies and their subsidiaries as separate legal entities, it is difficult to hold a parent company to account in the home state for any harm caused overseas. The private sector makes use of this principle of separate legal personality to limit liability, establishing foreign subsidiaries to protect parent companies. However, the distinction between parent and subsidiary is often disingenuous. Parent companies are frequently involved in the managerial oversight of their subsidiaries. In addition, financial resources routinely flow through the corporate group.

WHAT SHOULD HOME STATES DO ABOUT MULTINATIONAL COMPANIES?

The 2011 the UN Human Rights Council endorsed the [Guiding Principles on Business and Human Rights](#). The Guiding Principles provide states with direction regarding human rights abuse and the private sector. They emphasize that home state governments have an obligation under international law to protect against such abuse. To fulfill this obligation, the Guiding Principles call on states to:

- enforce legislation that requires business to respect human rights;

- protect against human rights abuse by business enterprises that receive support and services from state agencies such as export credit agencies; and
- ensure access to effective remedy for business-related human rights abuse.

DOES CANADA FOLLOW THE UN GUIDING PRINCIPLES?

While the Canadian government has endorsed the Guiding Principles, it does not comply with the provisions. With very few exceptions, Canada lacks regulatory provisions to ensure that Canadian companies respect human rights overseas. Existing provisions are limited to very serious crimes and are inapplicable in the vast majority of cases involving business-related human rights abuse.

Canada also lacks regulatory provisions to ensure that Canadian government agencies and their private sector clients respect human rights. A number of government departments and agencies provide financial and other forms of support to the private sector. They include Canadian embassies, the Trade Commissioner Service, the Canadian Pension Plan and Export Development Canada. These agencies support companies whose operations are associated with human rights abuse.

Finally, it is very difficult for the foreign victims of corporate abuse to seek remedy in Canada. A number of significant barriers impede non-Canadians from accessing our courts. In addition, the non-judicial grievance mechanisms in this country are either ineffectual or extremely limited in scope.

HOW CAN CANADA MEET ITS LEGAL OBLIGATIONS?

The Canadian government can fulfill its legal duty to protect against human rights abuse by the private sector by adopting measures that:

- prevent and sanction human rights abuse and environmental harm by Canadian companies overseas;
- create transparent, robust eligibility criteria for companies that seek government support; and
- ensure access to effective judicial and non-judicial grievance mechanisms in Canada for those who suffer harm associated with the overseas operations of Canadian companies.

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