

- Mineral- or petrochemical-related exploration, testing, or surveying.

‘Corporate Complicity’

Signatories to the government-sponsored Code of International Ethics for Canadian Businesses undertake not to be ‘complicit in human rights abuses’. But nowhere in that code is the notion of corporate complicity defined. The American-based group Human Rights Watch has the following useful discussion:

Complicity occurs in several cases.

- First, when corporations benefit from the failure of government to enforce human rights standards.
- Second, when corporations are involved in systematic violations of rights and the state, aware of such violations, fails to meet its obligations under international human rights law...
- Third, when a company facilitates or participates in government human rights violations.²

The Canadian Lawyers Association for International Human Rights (CLAIHR) adds that corporate complicity extends to cover those acts that increase human rights-abusing *activity* by a regime as well as those acts that increase the human rights-abusing *capacity* of the regime.³ An example of the former type of complicity might be encouragement by a firm’s presence of government actions to forcibly relocate indigenous populations. An example of the latter type might be the use of company-built facilities such as roads or airstrips by government forces engaged extra-area military operations.⁴

For the purposes of this discussion paper, a fairly broad definition of corporate complicity will be used. However, it is recognized that this key notion is in need of further clarification.

The Foreign Policy Case

How Canadian firms operate in risky states is an important foreign policy issue for at least four reasons.

1. First, the issue of where and how Canadian firms operate is a serious irritant in US-Canadian relations. These differences impose real (if un-quantifiable) diplomatic costs on Canada. Such tensions would be easier to manage if Canada had in place a

² Human Rights Watch, *The Enron Corporation: Corporate Complicity in Human Rights Violations* (New York: Human Rights Watch, 1999), p. 105.

³ Canadian Lawyers Association for International Human Rights, *Background: Options Available to the Government of Canada in Responding to Canadian Corporate Complicity with Human Rights Abuses*. Manuscript.

⁴ Incidents of both types were documented by the Harker Commission in its investigation into Talisman Energy’s operations in Sudan.