

## **Essential Elements: Human Rights Ombudsperson**

### **Independence**

The credibility of an ombudsperson rests on its impartiality. To ensure independence, the ombudsperson must operate at arm's length from government and be protected from the undue influence of business. The appointment process must be transparent and merit-based. An office that is placed within government or whose operations are subject to government oversight will not be perceived as trustworthy. Procedures must be avoided that allow more powerful actors to control or delay either the ombudsperson process or its outcomes.

### **Investigation**

The ombudsperson must be mandated and adequately resourced to undertake effective investigation. Investigation is essential to the resolution of conflict, the identification of appropriate remedy and the prevention of harm. An impartial determination of the facts can begin to address the acute power imbalance that frequently exists between communities and multinational companies, fostering equitable and lasting outcomes. A mechanism that provides for investigation on the ombudsperson's own motion and for investigation regarding significant *risks* of harm furthers the goal of harm prevention.

### **Recommendations and follow-up**

To encourage respect for human rights, the ombudsperson must have the power to make findings related to the human rights performance of Canadian companies, condition government support on that performance and recommend meaningful remedy for those affected. Linking government support to respect for human rights will minimize government complicity in corporate wrong-doing.

Transparent monitoring and follow-up are necessary to ensure that recommendations and settlement agreements approved by the ombudsperson are respected. Such mechanisms are essential to the ombudsperson's effectiveness and credibility.

### **Transparency**

The ombudsperson process must be transparent if it is to be viewed as a credible, trustworthy mechanism by all parties. To play a meaningful role in harm prevention, the ombudsperson's findings, recommendations, approved settlement agreements and policy proposals must be made public.