



Testimony before the Standing Committee on Justice Policy  
Legislative Assembly of Ontario

on

*Bill 52, An Act to amend the Courts of Justice Act, the Libel and Slander Act and the  
Statutory Powers Procedure Act in order to protect expression on matters of public  
interest*

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My name is Karen Hamilton. I'm Program Officer at Above Ground, an Ottawa-based non-profit, public interest organization. Until recently, the organization was called the Halifax Initiative.

The Halifax Initiative was threatened with a SLAPP suit earlier this year. Before describing the negative impacts this had on the organization, I'd like to first describe our work and how it contributes to informed public debate in Canada.

The Halifax Initiative was founded more than twenty years ago. For over a decade, our work has included a focus on corporate accountability. We encourage companies to respect human rights. Moreover, we encourage the Canadian government to fulfill its legal duty to protect against human rights abuse by the private sector.

Canadian multinational companies are linked to serious human rights abuse and environmental damage overseas. They face a range of credible allegations that include employing slave labour, mismanaging toxic waste, and using intimidation tactics to silence opposition to their projects. International authorities including the InterAmerican Commission on Human Rights and several UN treaty bodies have examined the impacts of Canadian companies in foreign countries. Most recently, the UN Human Rights Committee expressed concern about human rights abuses by Canadian mining companies operating abroad, and about the lack of accessible remedies for victims of these violations. Eight claims containing allegations of environmental or human rights abuse related to the overseas operations of Canadian mining companies have been filed by foreign plaintiffs in Canadian courts. Three of these cases are currently before Ontario courts. They include allegations of company personnel committing murder and rape, and causing injury.

To be sure, Canadian companies are not the only perpetrators of corporate abuse. The UN has called for more robust accountability for all multinational companies, and the UN Human Rights Council is working to establish a legally binding treaty to this effect.

The Canadian government is an important partner to multinational companies. It actively facilitates their operations through a variety of mechanisms, including political support, economic support and the negotiation of commercial treaties. My organization disseminates information and

analysis about government programming and raises awareness about the harmful impacts caused by many of the corporations who benefit. We seek to avoid these impacts by promoting greater transparency and accountability in government practice, and we develop policy reform proposals to this end. We build support for these proposals through public education and engagement with decision-makers.

Earlier this year the Halifax Initiative and its staff were threatened with a SLAPP suit regarding a publication that we produced in collaboration with international colleagues. In late 2014, we published an online report that exposes serious human rights abuse associated with the operations of several multinational companies that receive public financing. The publication was extensively researched. Our claims were substantiated by diverse sources, including testimonials from people directly impacted by the companies' activities.

In January of this year, my colleague and I received a letter from a law firm representing one of the companies mentioned in the publication. Among other things, the 5-page letter urged us to remove the publication, publish an unqualified retraction and apology, and cease and desist from publishing any other information about the company without first verifying that information with the company. We were informed that our failure to comply with the demands would result in possible civil and/or criminal proceedings. The company estimated damages at approximately \$200 million.

Our organization took the letter very seriously. We immediately shared it with our international colleagues and initiated a process for deciding how to respond. We also hired a lawyer. Discussions with our international colleagues, our board members and our lawyer took a great deal of time and effectively paralyzed our organization for the next three weeks.

In the end, we felt compelled to withdraw the publication from public circulation. This was a very difficult decision. We felt a genuine obligation to bring information about the company's operations to light and did not want to be intimidated by the company's threat. However, we are a small organization with limited resources. We knew the organization would not survive the demands of litigation. Furthermore, if staff members were sued in their personal capacity, they would not have the financial resources necessary to mount an effective defense.

In discussions with the international colleagues with whom we co-authored the publication, it became clear that relative to other legal jurisdictions, public interest organizations and advocates are highly vulnerable to SLAPP suits in Ontario. Had legal protections existed in Ontario for public interest communication, our analysis of the threat the letter posed would have been very different.

We therefore urge you to adopt Bill 52. The measures contained in the bill will allow organizations like ours to continue to contribute to the development of informed public policy.

Thank you.