

The Slaves of Eritrea - Matthew McClearn, Canadian Business - May 9, 2014 (retrieved on May 18, 2016)

Canadian mining company Nevsun has been accused of using forced labour to build a mine in Eritrea. How could something like that happen in the modern business world?

<http://www.canadianbusiness.com/global-report/the-slaves-of-eritrea/>



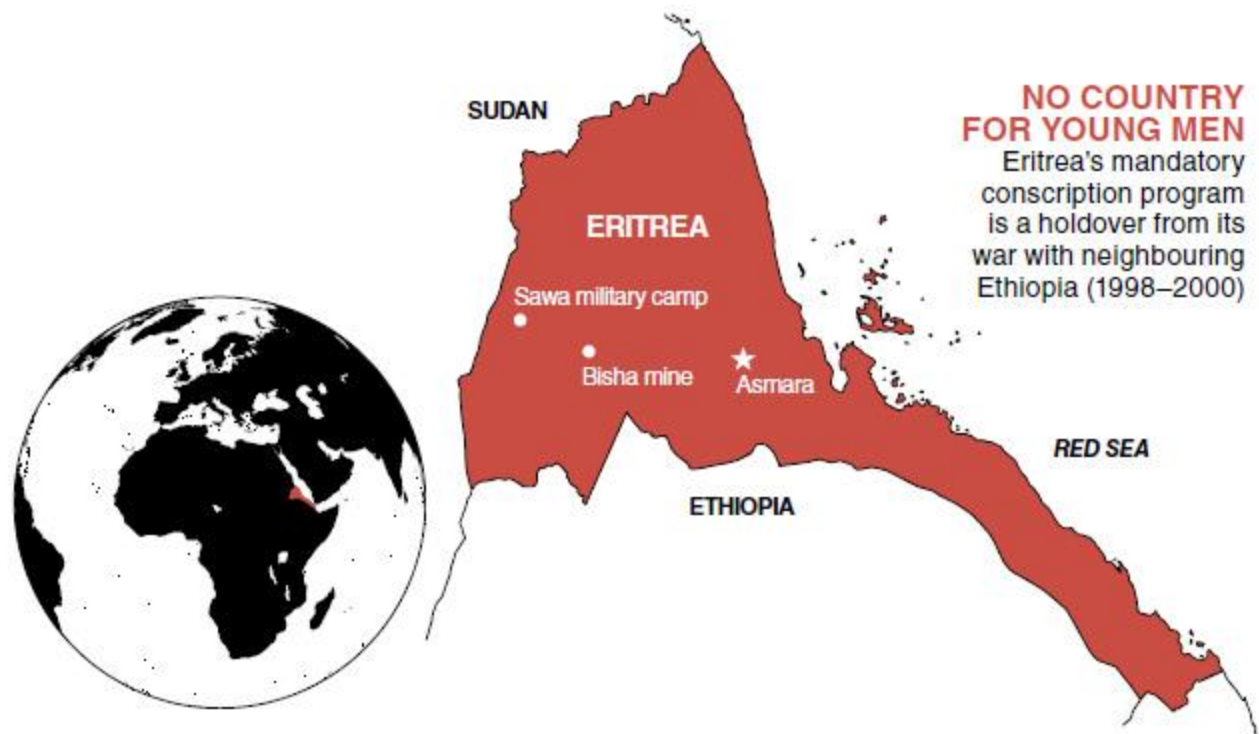
(Illustration by Owen Freeman)

The news was grim, but not surprising. Yannick Lamonde, an official within Canada's Department of Foreign Affairs and International Trade (DFAIT), received word in January last year of an impending report by a prominent non-governmental organization. Its contents were explosive: Human Rights Watch claimed a Canadian-owned mine in Eritrea had been built partly by de facto slaves. Department officials were already well-acquainted with the mine's majority owner, Vancouver-based Nevsun Resources, and certainly its mine, Bisha, located in the dusty interior of the North African nation. They had even heard similar rumours at least a year earlier. But

with those unproven allegations now receiving widespread publicity, remaining silent was no longer an option.

The first order of business was to prepare for the inevitable questions from reporters. According to documents obtained by *Canadian Business* under the federal Access to Information Act, the DFAIT's media relations team was given a series of stock responses to deliver. Corporate Canada "[leads the world in responsible mining practices,](#)" the officers told reporters from the CBC, *La Presse* and elsewhere when they called. But as for claims about people forced to build a mine in distant lands, those were the responsibility of local authorities. Headlines followed, but the furor quickly passed.

Among the allegations commonly lobbed at Canadian mining companies, permitting forced labour at one's mine surely ranks among the most outrageous. But if DFAIT's response seems somehow inadequate, in reality Lamonde and his colleagues were simply doing their jobs. For years, the federal government has encouraged Canadian companies to subscribe to voluntary measures collectively known as "corporate social responsibility," or CSR. Like other nations, however, Canada has steadfastly resisted pressure to directly regulate companies' behaviour abroad, even when they're operating in jurisdictions with abysmal human rights records. The controversy surrounding what happened at Bisha reveals, however, that Canada's laissez-faire approach comes with unexpected consequences that affect every taxpaying Canadian citizen.



The 150 kilometres that separate the Bisha mine from Eritrea's capital take four hours to drive. But whereas Asmara is a bustling city of 650,000 filled with 1930s colonial Italian architecture, Bisha lies amid an expansive desert of rolling, ochre-tinged sand and scrub. Nevsun acquired its licence to explore for minerals in Eritrea's semi-arid lowlands during the 1990s. There the company found significant deposits of gold, silver, zinc and copper just under the sun-baked surface. These riches were at least as important to the Eritrean government as they were to Nevsun: by various estimates Bisha would provide about US\$1 billion in royalties and revenues over its life, and raise the country's annual GDP by several percentage points.

The compromises necessary to build Eritrea's first modern mine drew both parties into unfamiliar territory. The Eritrean government, which fiercely espoused national independence and self-reliance, would own just 40% of the joint venture, known as the Bisha Mining Share Co. (BMSC) – Nevsun would hold the rest. BMSC, meanwhile, would be required to employ a subcontractor owned by Eritrea's ruling party, called Segen Construction, to build roads, staff housing and earthworks. Nevsun, for its part, would rather not have hired Segen as its price was "significantly higher" than what could otherwise have been negotiated.

Cost was not Nevsun's only concern. In a 2006 U.S. diplomatic cable published by WikiLeaks, U.S. Ambassador to Eritrea Scott DeLisi described how Segen crushed private competitors to become the country's largest construction company. Its main advantage, DeLisi wrote, was that it got its labour at "nearly zero cost." That's because Segen employs conscripts from Eritrea's "National Service," a program through which Eritrea enslaves many of its own citizens.

Awate (not his real name) was among the National Service's first 12,000 conscripts. He was a teenager when, in 1994, military police plucked him from the streets of Asmara and transported him, by open-bed truck, to Sawa military camp. The following year the government proclaimed the official terms of National Service: all Eritreans aged between 18 and 40 were required to serve 18 months. (For youth, this meant six months' military training at Sawa, followed by a year of unpaid military or civil work.) Those who refused faced up to five years in prison.

Awate spent the better part of the next decade performing unpaid labour, much of it for the military. (He still bears scars from a tank shell explosion during Eritrea's 1998 war with Ethiopia.) In calmer times he performed work for Segen, building roads and irrigation ditches. Workdays lasted up to 16 hours, Awate says, with no days off. Meals invariably consisted of bread, soup and tea. The monthly pay was 95 nakfa, enough to buy about six packs of cigarettes.

After the war with Ethiopia ended in 2000, Awate recalls hearing promises that many soldiers would be released back into civilian life. It didn't happen. Instead, he claims conscripts were exploited by the ruling party. "When the war is over, the soldiers, they become like slaves," he says in his even, unemotional tone. "They start to build generals' houses, their farms." And because the majority of Eritrean youths were now conscripted in the National Service, any business requiring their labour had to effectively rent them from the government. The regime pocketed the profits.

Awate resolved to join the thousands departing every month for neighbouring Ethiopia and Sudan. To avoid National Service is to be branded as a traitor, and refugees may be imprisoned without trial, tortured, or simply shot dead at the border. Awate did escape and eventually settled in Canada, but the price was steep: his mother was imprisoned for his transgression. She was released but later died of illness.

Now in his 30s, Awate attends a high school and mans a parking toll booth. "I am too late for everything now," he laments. "My youth, I spent it on struggle." Even now he remains under Eritrea's thumb. When a sibling in Asmara was refused a business licence because Awate had not paid his 2% "diaspora tax," Awate paid. Last year Canada expelled Eritrea's consul in Toronto for continuing to collect this tax after being warned to stop – but it came too late. "Now they are going to call me every year," he says.

Although Awate never worked at Bisha, his experiences echo those of other refugees who report working for Segen. Gaim Kibreab, an Eritrean-born professor at London South Bank University, has studied Eritrea's National Service since its inception, and has interviewed more than 200 refugees across Africa and Europe. He says the government established it as a means of inculcating youth with the same qualities and values that helped Eritrean fighters overcome their Ethiopian adversaries during Eritrea's War of Independence (1961–1991). "It actually began as a good program in view of the devastation the country had suffered," Kibreab says. But while military conscription is legal under international law, National Service quickly morphed into something else. During the 1998–2000 war with Ethiopia, the supposed 18-month term was eliminated entirely. "That was when it degenerated into forced labour," Kibreab says. "There is no end. Once you join, you never leave."

By the time construction commenced at Bisha in late 2008, forced labour was an inseparable feature of Eritrea's economy. Nevsun appreciated this. "We recognized that there was a potential National Service issue with respect to the subcontractor," CEO Cliff Davis told a parliamentary subcommittee in 2012. So Nevsun did precisely as the Canadian government suggested: it subscribed to an array of voluntary CSR codes, particularly that of the World Bank's International Finance Corp., and hired a consultant to draw up procedures to meet those obligations. Nevsun required any Eritrean applying to work at Bisha provide documents proving they'd been discharged from National Service. This, the company believed, would ensure no one worked at Bisha against his will.

Strangely, the policy did not initially extend to subcontractors, which rendered Nevsun blind to what went on at Segen's workers camp. A few months into construction, in early 2009, a person Nevsun describes as "a European or South African banking syndicate official" visiting Bisha told the company Segen might be using conscripts there. Nevsun quickly responded by altering contracts with Segen to include an explicit guarantee that its Eritrean partner would not use conscripts and by requiring Segen employees provide discharge papers. Nevsun later strengthened procedures further: all workers at Bisha had to carry photo identification, a means of guarding against conscripts replacing previously cleared workers. Spot audits were conducted, but before this point Bisha may have employed Eritreans against their will.

Nevsun's concerns over Segen mounted in 2010 when another of BMSC's contractors, a South African company, reported that some Segen workers were hungry. Nevsun asked for permission to visit Segen's camp and was refused – causing a rift between the two firms. When Segen eventually relented, the inspection found poor living conditions and low food inventories – complaints eerily similar to those from refugees who worked for Segen elsewhere in Eritrea. Nevsun intervened.

Little of this was public knowledge when Bisha swung into commercial production in early 2011. But shortly afterward, two individuals – Abadi Gebremeskel and Legesse Berh – joined the endless stream of refugees arriving at Tigray, Ethiopia, and were subsequently interviewed by London-based Human Rights Concern Eritrea. Both men claimed to have worked at Bisha.

Gebremeskel said he worked as a safety officer for Segen early in the construction of Bisha. He observed Segen workers toiling without helmets and shoes, living without proper food or housing. Of the 1,000 Segen workers he claimed were on site, he estimated that all but 150 were conscripts. “Generally, you would call it slavery and/or servitude,” he said. “Segen Construction means a company which exploits its workers and uses slave labour.” He claimed that informants disguised as workers created a culture of fear, and that Segen workers were instructed “not to tell any information to the white men.” Citing testimony from Gebremeskel and five other ex-conscripts, Human Rights Concern Eritrea accused Nevsun of turning a blind eye.

The allegations received wider attention after Human Rights Watch, the large international NGO, published its own report – the one that landed on Yannick Lamonde’s desk at DFAIT last January. Human Rights Watch reached similar conclusions, citing “clear evidence” Segen workers suffered from inadequate food and shelter at Bisha, and that some were conscripts. It accused Nevsun of complicity. “Incredibly, Nevsun appears to feel that it has no power to confront its own politically connected contractor about allegations of abuse at its own mine site,” the NGO complained. “Instead its response to Segen’s stonewalling has been one of quiet acceptance.” Nevsun, having been informed about the report’s impending publication, issued a statement. “The Company expresses regret if certain employees of Segen were conscripts four years ago,” it said, while emphasizing it had been compelled to hire Segen. Indeed, the company had attempted to do further work on the site without Segen in late 2011, only to be ordered by the government to stop and rehire the subcontractor. (The Eritrean government dismissed the report as “cheap shots and lies.”)

To be clear, there is no evidence Nevsun sought to benefit from forced labour – the reverse seems to be true. It has engaged with relative openness on the issue with NGOs, government and the media. Last year it commissioned Montreal lawyer Lloyd Lipsett to review Bisha’s current practices; his report, published in April, said spot checks of discharge papers and interviews with Segen workers confirmed they’d been discharged from national service. Even today, it is impossible to say whether conscripts actually helped build Bisha or not. Exiled Eritreans interviewed by *Canadian Business* unanimously believed they did. But when pressed, they conceded a lack of conclusive evidence – as did Human Rights Watch.

Nevsun doesn't know, either, although it has tried to find out. Last year it dispatched recently hired vice-president of corporate social responsibility, Todd Romaine, to Bisha to investigate. He visited Segen's new camp in March 2013, inspected its dining halls and sleeping accommodations. And through a translator, he interviewed nine Segen employees, including three who'd worked at Bisha since 2008. "We were looking for people who had been around since these allegations were made, to see if we could find out if, back then, they knew people who were there who were conscripts," says Romaine. "The answer, across the board, was no."

Canadian officials knew, earlier than most, about allegations of forced labour at Bisha. This much is revealed in the more than 700 pages of government records *Canadian Business* obtained, covering 2008 through early 2013, using the federal government's Access to Information Act. In an e-mail to colleagues in January 2012, Ethiopia consul Christopher Hull wrote that reports about mining firms in Eritrea "being forced to use conscripts and prison labour matches what we are being told here." The documents demonstrate that DFAIT officials kept in close contact with Nevsun, meeting with executives at least several times and exchanging regular e-mails. Dozens of officials were involved in monitoring the company's activities and co-ordinating the department's response. During the back and forth, Nevsun likely expressed to DFAIT (as it did to *Canadian Business*) its faith in its Eritrean partners. And it certainly detailed and expressed pride in its own CSR practices. Even so, one internal DFAIT briefing about Nevsun noted that while the allegations could not be substantiated, "the low level of respect for human rights in Eritrea means that the allegations should not be dismissed lightly."

DFAIT apparently decided to voice its concerns discreetly. Records suggest that one official made a "courtesy call" to Eritrea's permanent representative to the UN about the country's poor human rights record. And during a lunch with Nevsun CEO Cliff Davis, officials were instructed to deliver certain "talking points" to Nevsun. Among them:

We would advise you to have a well-developed CSR strategy in place. Doing business in a country that faces allegations of human rights abuses such as Eritrea carries with it a certain amount of reputational risk. It is up to Nevsun to make sure that it is conducting itself in the proper manner and is not complicit with any of the accusations being directed at the Eritrean government by civil society.

DFAIT officials worried about how the brewing controversy might affect other Canadian companies. During the summer of 2012, the Norwegian chapter of Amnesty International attacked Norway's national pension fund for owning Nevsun shares. "The fund is important for Canada as it has invested around \$10 billion in close to 300 of our

companies,” wrote Canadian Trade Commissioner Christian Hansen, then stationed in Oslo, in a heavily censored memo. This raised the possibility that reputational fallout from Nevsun might put those investments in jeopardy. In response, the fund’s ethics council began an ongoing assessment of whether any of the companies in the fund might be involved in human rights violations (forced labour particularly) in Eritrea.

Caution must be taken in interpreting these documents: they reveal only so much about their authors’ motivations. But they do suggest a lack of curiosity about what really happened at Bisha. Michele Lévesque, Canada’s Ambassador to Ethiopia, displayed initiative when she wrote to colleagues that she “was trying to find out to what degree [Nevsun] adheres to CSR...any information on that aspect would be appreciated.” She seems to have received silence in response.

Parliamentarians were more curious. Beginning in early 2012, a subcommittee of the Standing Committee on Foreign Affairs and International Development began studying the human rights situation in Eritrea. The subcommittee heard several witnesses who cast Eritrea’s government in profoundly negative light. Several alleged forced labour may have been used in Bisha’s construction. After receiving word of these allegations, Davis himself volunteered to appear before the committee via teleconference to set the record straight. His exchanges with members were at times testy – particularly with veteran Liberal MP Irwin Cotler, who confronted Davis with the litany of allegations against Nevsun’s business partners. “How do you feel about your involvement in a country that has been described as the North Korea of Africa with respect to human rights violations?” Cotler demanded impatiently. He wanted to know what Nevsun had done to persuade its partners to stop abusing Eritreans. Davis seemed mystified by Cotler’s hostility; he saw Bisha as a positive force in Eritrea, and couldn’t see how he had any business telling his partners how to run their country. “We as a company can only control what we control,” Davis said repeatedly.

If one finds the allegations at Bisha unsettling, perhaps it’s because slavery seems an antiquated concept. The campaign to abolish the trans-Atlantic slave trade began more than two centuries ago, and forced labour is prohibited by two 20th-century conventions – the more recent International Labour Organization’s Abolition of Forced Labour Convention was in 1957 – and both were almost universally ratified. How is it, then, that when allegations arose that a Canadian mine may have been built with forced labour, the government’s response was largely confined to drawing up “media lines” and “talking points?”

Part of the explanation is that Davis’s mantra – we can only control what we can control – echoes national policy. Testifying before the subcommittee, Patricia Malikail (as director general for DFAIT’s Africa Bureau, she spoke to Davis directly on at least

two occasions) summed up Canada's approach: "These companies operate according to their own principles," she said. "What we do is support and encourage companies to implement, for example, corporate social responsibility initiatives." The spirit of intervention that guided the 19th-century anti-slavery movement has been replaced by an ethos of non-interference and laissez-faire trade.

Penelope Simons, a law professor at the University of Ottawa, finds this unsatisfactory. She and a colleague published a book this year examining the efficacy of a variety of voluntary CSR standards. Apart from allowing corporations to operate abroad freely and placing them on a level playing field with global competitors, she found little to recommend them. "It's a weak approach, and it's the status quo," she says. The initiatives "are all flawed in different ways and are incapable of systematically preventing corporate complicity in human rights abuses or of assuring accountability," she says.

Simons advocates something called "home state regulation," a legislative framework for regulating corporate behaviour abroad. Neither Canada nor its peers do that now. (Corruption is a rare exception; most developed countries now prosecute companies for bribing overseas officials.) Several years ago Liberal MP John Mckay introduced a private member's bill known as C-300, which would have compelled the federal government to determine whether Canadian companies were upholding certain environmental and human rights standards when operating abroad – and withdraw federal support from offenders. The government, worried an avalanche of frivolous complaints would place Canadian companies at a competitive disadvantage, defeated the bill.

But Canada's current approach also has consequences. After all, Norwegian pension funds weren't alone in investing in Nevsun. While the Canada Pension Plan Investment Board also considers environmental, social and governance factors when making investments, much of the CPP's equity portfolio essentially replicates major stock indexes. Because Nevsun is a member of the S&P/TSX composite, the CPP automatically bought shares. As of March 2013, it held more than 1.8 million of them, worth about \$7 million. If conscripts really did help build Bisha, then every Canadian citizen profited a little from slavery in a far-off land.