

# **Colombia in the shadow of human rights abuses**

**COLOMBIA WORKING GROUP (CWG)**

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# Introduction

In 2007, Prime Minister Stephen Harper announced Canada's new "Americas Policy," through which Canada would build trade ties with governments that shared Canada's values of "democracy, human rights, rule-of-law and good governance." The Canadian government then announced negotiations for a free trade and investment deal with Colombia, the country with the worst human rights record in the hemisphere.

The Canada-Colombia Free Trade Agreement (CCOFTA), implemented in 2011, resolved to "protect, enhance and enforce basic workers' rights," and affirmed a commitment to the "protection of human rights and fundamental freedoms." Instead, like Canada's previous trade deals it proved to be a standard neoliberal agreement that promotes market liberalization, privatization and deregulation, and includes no binding obligations regarding human and democratic rights. The FTA raised serious human rights concerns for vulnerable populations amid Colombia's internal conflict, including fears that it could foment and protect investments associated with militarization, violence and forced displacement. The CCOFTA's investment chapter accorded investors powerful new rights, but no binding human rights obligations for private companies. Civil society groups that had worked in solidarity with Colombian counterparts for decades feared that introducing an FTA into the Colombian context would tilt the scales further against persecuted labour and human rights advocates.

To counter these widespread concerns, the Canadian and Colombian governments agreed to table in their respective parliaments a yearly report on the agreement's human rights impacts. This fell short of expectations for a prior, independent, impartial and comprehensive human rights impact assessment (HRIA) as called for by international experts and the Canadian Parliamentary Standing Committee on International Trade (CIIT).

A review of the annual human rights reports filed since 2011 exposes their shortcomings and supports the claim by human rights monitors that the Canadian government has chosen to turn a blind eye to the human rights crisis in Colombia. The reports contain little acknowledgment of human rights problems, and do not examine the impact of Canadian investment in oil, gas and mining. This contradicts the very essence of the exercise, since Canadian extractive interests in Colombia were one of the government's primary motivations for pursuing the trade deal – and the most pressing concern voiced by human rights groups worried about the agreement.

This report, "Colombia in the Shadow of Human Right Abuses," and its accompanying fact sheets paint a different picture from the Canadian government narrative that trade is the best way to improve Colombia's human rights record. Credible human rights groups, labour unions, NGOs in Colombia and Canada, and the United Nations have compiled compelling documentation demonstrating that human rights violations against trade unionists, human rights defenders, Indigenous and Afro-descendent communities have not abated over the past four years.

This report also documents the role played by the Canadian state and Canadian multinational corporations. The latter have in some cases reaped benefits by disregarding labour rights, through dangerous and contaminating environmental practices, and by bolstering militarization that has resulted in human rights abuses.

# Geopolitical Context of the Canada Colombia Free Trade Agreement

To fully understand the general impact of the Canada Colombia Free Trade Agreement (CCOFTA) requires looking beyond statistics on imports and exports between the parties – although knowing the commercial benefits or negative effects of tariff reductions is important. This agreement was negotiated to enforce the US-Canada geopolitical alliance in a region that at the turn of the 21st century was leaning to the left of North America's vision of NAFTA-style economic integration of the Americas. It was also meant to consolidate access to Colombia's rich natural resources by offering strong investment protections to Canadian extractive companies. It is therefore important to track the distribution of Canadian foreign direct investment in Colombia and the legal framework established in the CCOFTA to protect investor rights. And to truly understand the ongoing human rights crisis in Colombia after four years of living with the CCOFTA, it is also important to assess the neglect of human rights, basic labour rights and the environment by the Colombian state and Canadian corporations operating in Colombia.

## NAFTA – a model for the Americas

Starting with implementation of the North American Free Trade Agreement (NAFTA), *free trade* agreements became *free trade and investment* agreements due to the inclusion of Investor State Dispute Settlement (ISDS) clauses. Critics called these agreements “corporate rights treaties,” fearing they would be used to protect private profits from laws passed in the public interest, such as to protect the environment or human health. Under ISDS provisions in trade and investment agreements, private companies can sue national governments for damages or loss of profit. These investor protections put a ‘chill’ on any government attempts to legislate laws in the public good, thus “lowering the threshold of health protection, food safety, and labour standards, by catering to the business interests of pharmaceutical monopolies and extending intellectual property protection.” These provisions also ease the risk for multinational companies that their investments might be expropriated, which would discourage flows of foreign direct investment.

Based on the NAFTA model, the CCOFTA investment chapter enshrines powerful investor rights – in stark contrast to the deal's lack of any mechanism to enforce investors' *responsibilities*, its labour and environmental side agreements, or the Canada-Colombia Human Rights Agreement.

NAFTA, implemented in 1994 by the United States, Canada and Mexico, became the template for economic integration in the region. Subsequently, the Free Trade Area of the Americas (FTAA) was intended to integrate the economies (and investor rights protections) of the 34 countries (all but Cuba) from Alaska to Tierra del Fuego. With the rest of the continent beginning to rebel against US domination, threatening the North American project of consolidating economic integration, Colombia became a beachhead for the US security and military apparatus. The US government strongly allied with Colombia, pouring US\$7 billion into the security operation known as Plan Colombia under the veil of the War on Drugs. Meanwhile, the human rights crisis in Colombia continued to grow: brutal paramilitary gangs proliferated, murders of trade unionists continued, and peasants, Indigenous and Afro-descendent communities were forcibly displaced from their ancestral homes.

## **Colombia goes after free trade deals**

When right-wing politician Alvaro Uribe was elected President of Colombia in 2002, his goal was to lock in neoliberal reforms and build the economy through foreign direct investment (FDI). He believed that a free trade deal with the United States would not only grow the economy and attract foreign direct investment but also legitimize his regime in the face of international campaigns to stop the terror and killing of trade unionists.

US President George W. Bush was happy to negotiate such a deal, but the Democrat-controlled US Congress was not. Congress was worried about Uribe's failure to investigate the killing of trade unionists and convict the murderers, crimes with a 90% impunity rate to this day. Furthermore, Uribe soon became embroiled in shocking scandals involving paramilitary and drug cartel support for his political party. High-ranking army officers were accused of murdering civilians to falsely identify them as guerrilla insurgents, and the army and government were accused of crimes against humanity at the International Criminal Court in The Hague. Nonetheless, the US and Canadian governments steadfastly supported Uribe's regime. This support grew even stronger when the FTAA negotiations failed in 2004, leaving Canada and the US isolated from the rest of the Americas and jeopardizing NAFTA-model economic integration for the continent.

## **Canada steps in to help two friends in need**

With a minority government in Ottawa in 2008, the Conservatives needed Liberal votes to ratify the Canada-Colombia FTA in Parliament. The Liberals agreed to support the FTA if the government signed an "Agreement Concerning Annual Reports on Human Rights and Free Trade between Canada and the Republic of Colombia." This agreement obliged the Canadian and Colombian governments to table annual reports in their respective parliaments on May 15 each year after implementation of the FTA. The Canadian government opted to treat this requirement as a rote exercise, commenting only on trade statistics and refusing to examine the impacts of Canadian investments on human rights in Colombia. It states that "issues such as foreign investment fall outside the scope of this report as no actions were taken by Canada in these areas."

Canada secretly negotiated a deal that would benefit Canadian mining, oil and gas companies, align Canadian policy more closely with that of the US, consolidate the shared vision of regional economic integration, and link free trade with the North American security agenda.

## **Trade imbalance under the CCOFTA**

The Free Trade Agreement between Colombia and Canada was meant to increase trade and commerce between the two countries by removing high tariffs and trade regulations. The following chart indicates that from 2009 to 2013, the trade balance in favour of Canada more than doubled.<sup>1</sup>

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<sup>1</sup> D. Hawkins, A. Vásquez, C. Tangarife and Natalia García. "El TLC Entre Colombia y Canadá: Tres Años de Impactos Negativos a Los Derechos Laborales, Humanos y de Bienestar Social y Ambiental", Escuela Nacional Sindical. October 2014, p17. [http://www.academia.edu/9015442/El\\_TLC\\_entre\\_Colombia\\_y\\_Canad%C3%A1\\_tres\\_a%C3%B1os\\_de\\_impactos\\_negativos\\_a\\_los\\_derechos\\_laborales\\_humanos\\_y\\_de\\_bienestar\\_social\\_y\\_ambiental](http://www.academia.edu/9015442/El_TLC_entre_Colombia_y_Canad%C3%A1_tres_a%C3%B1os_de_impactos_negativos_a_los_derechos_laborales_humanos_y_de_bienestar_social_y_ambiental).

### ***Bilateral Colombian Trade with Canada (in US\$ million)***

	2009	2010	2011	2012	2013
Exports to Canada	385.6	532.1	614.4	466.9	390.2
Imports from Canada	625.8	752.3	929.7	1,058.0	932.6
<b>Trade Balance</b>	<b>-240.2</b>	<b>-220.2</b>	<b>-315.3</b>	<b>-591.0</b>	<b>-542.4</b>

Source: DIAN-SIEX

After 2011, Colombia's primary imports from Canada were agricultural goods, even though around 32% of Colombians live in the countryside and work in agriculture, and 40% of food consumed in Colombia is produced internally.<sup>2</sup> From 2010 to 2012, imports of meat, grains and sugar from Canada increased by 194%, 56% and 137% respectively.<sup>3</sup>

Colombian farmers cannot compete with the low prices of mass-produced, tariff-free imported agricultural products, which destabilize local production and allied industries. In 2014, it was reported that 90% of Colombia's rural population lives in poverty, and that 63% do not own their own plots of land.<sup>4</sup>

When the CCOFTA came into force in 2011, the Colombian government announced it could create up to 120,000 jobs in the agricultural sector.<sup>5</sup> However, as explained below in "Flower Industry," the "jobs" created come with few rights, poor working conditions and low salaries.

## **Repression and Human Rights in Colombia**

Colombia's 60-year armed conflict is one of the longest-standing internal wars in the world, a conflict that has contributed to grave human rights violations including targeted murders, abductions, massacres and torture.

"Human rights defender" is a United Nations-recognized term used to describe people who, individually or with others, act to promote or protect human rights.<sup>6</sup> The lives of community and social activists devoted to defending human rights are at great risk in Colombia. In 2014, 62 community leaders who worked to defend human rights or land ownership were assassinated, and 10 more were murdered in early 2015.<sup>7</sup>

The System of Information about Aggressions against Defenders of Human Rights (SIADDHH) reported that in 2014, attacks against human rights defenders grew by 20% – despite peace talks in Cuba and growing calls for peace from civil society. "Between January and June 2014, on average, one human rights defender was attacked every day, and [one in six of those attacked] was assas-

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<sup>2</sup> "¿Quiénes son los campesinos hoy?" <http://www.urosario.edu.co/campesinos-colombianos/>.

<sup>3</sup> Hawkins et al., "El TLC Entre Colombia y Canadá", Escuela Nacional Sindical, October 2014, p23.

<sup>4</sup> <http://www.elpais.com.co/elpais/economia/noticias/90-poblacion-campesina-pobre>, Oct. 15, 2014.

<sup>5</sup> *El Empleo*, "TLC con Canadá puede generar hasta 120 mil empleos en el campo".

[http://www.empleo.com/colombia/noticias\\_laborales/tlc-con-canada-puede-generar-hasta-120-mil-empleos-en-el-campo---/6587425](http://www.empleo.com/colombia/noticias_laborales/tlc-con-canada-puede-generar-hasta-120-mil-empleos-en-el-campo---/6587425), seen in February 2015.

<sup>6</sup> United Nations, Office of the High Commissioner for Human Rights,

<http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Defender.aspx> Accessed June 9, 2015.

<sup>7</sup> <http://www.reconciliacioncolombia.com/historias/detalle/681/onu-dice-que-situacion-de-defensores-es-critica>.

sinated.”<sup>8</sup> The 194 attacks against human rights defenders in 2014 included threats, murders, attempted murder, arbitrary detentions, arbitrary use of the penal system, stealing information, and disappearances. Paramilitary groups committed half of these crimes,<sup>9</sup> but state agents also attack human rights defenders. In 2011, the head of security under former president Uribe, Colonel Mauricio Santoyo – who also led the Third Brigade of the Colombian National Army, the Cali police, and the Department of Administrative Security (DAS)<sup>10</sup> – was found to have supported and collaborated in the “disappearance of human rights defenders and the illegal interception of almost 2,000 phone lines.”<sup>11</sup>

### ***Attacks against Human Rights Defenders***

<b>Types of attacks</b>	<b>2011</b>	<b>2012</b>	<b>Jan.–June 2013</b>	<b>Jan.–June 2014</b>
Threats	93	81	86	105
Assassinations	29	29	37	30
Attacks	10	29	21	29
Arbitrary arrests	8	17	6	18
Forced disappearances	3	3	not registered	1
Arbitrary use of penal system	1		2	7
Assault or injury	1			
Information theft		3	2	4
Sexual violence		1		
<b>Total</b>	<b>145</b>	<b>163</b>	<b>154</b>	<b>194</b>

*Source: Somos Defensores*

Attacks against Colombian human rights defenders have become common due to a high degree of impunity. 219 human rights defenders were killed between 2009 and 2013, but only six cases resulted in guilty verdicts, of which only three are final while the other three are being appealed.<sup>12</sup>

### **Mobilization of peasant and allied movements**

Several times in 2013, peasants took to the streets to demand an end to displacement, the exploitation of labour, land and resource expropriation, and international free trade agreements. The largest of these actions, the agrarian strike, began on August 19, 2013. Workers in the petroleum, small-scale

<sup>8</sup> Somos Defensores, “IMAGINA”, 2014.

<sup>9</sup> Somos Defensores, “IMAGINA”, 2014.

<sup>10</sup> Peace Brigades International, “Operation Dragon: ‘A case of alarming and shameless impunity,’ says lawyer Jorge Molano”. [http://www.pbi-colombia.org/los-proyectos/pbi-colombia/noticias-de-colombia/ultimas-noticias/?L=1&tx\\_ttnews%5Btt\\_news%5D=3482&cHash=c99c10a50ff1ef8e326385387c9a271a](http://www.pbi-colombia.org/los-proyectos/pbi-colombia/noticias-de-colombia/ultimas-noticias/?L=1&tx_ttnews%5Btt_news%5D=3482&cHash=c99c10a50ff1ef8e326385387c9a271a), modified May 21, 2012.

<sup>11</sup> Peace Brigades International, October 2014, p73.

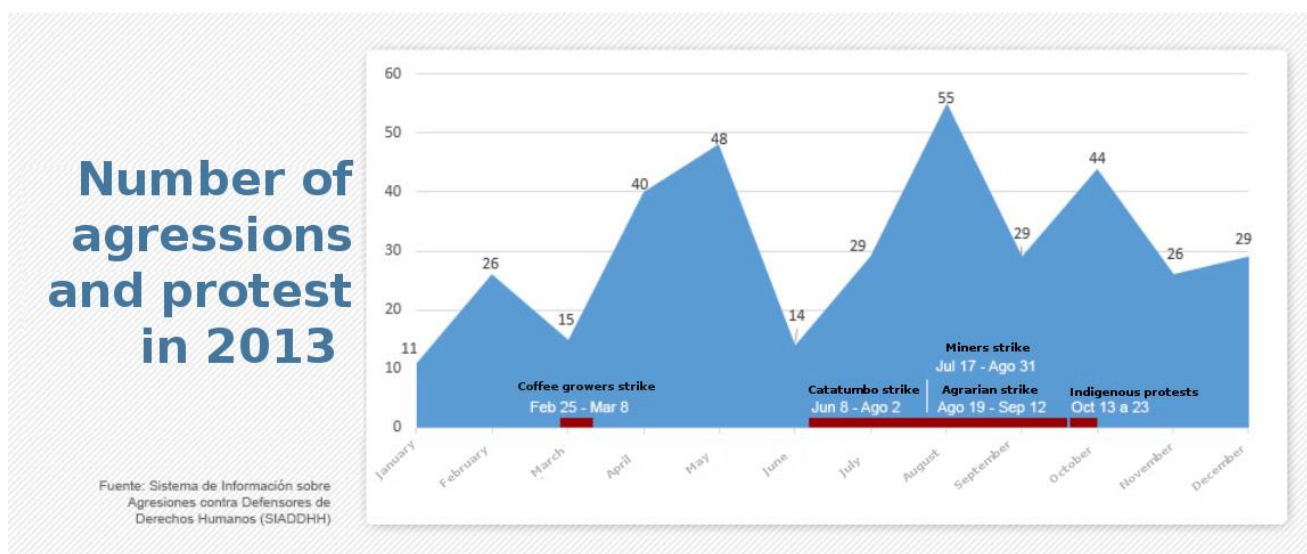
<sup>12</sup> Álvaro Sierra Restrepo, “2013, año récord en ataques contra defensores de derechos humanos”, *Semana*. <http://www.semana.com/nacion/multimedia/2013-ano-record-en-ataques-contra-defensores-de-derechos-humanos-colombia/378040-3>.



mining, potato, milk and coffee sectors mobilized in 22 departments (provinces) across Colombia. Peasants and their allies participated in a variety of actions, such as long-term roadblocks on highways and marches in major cities. Mobilizations during the strike resulted in 19 deaths, 600 people injured and hundreds of people detained.

Following 2013's national multi-sectoral mobilizations, the Popular, Ethnic, Agrarian Summit was held in Bogotá in March 2014. Bringing together many of Colombia's major social and political organizations, the summit was part of an ongoing effort to enable people to articulate their problems and collectively create solutions for a new order.<sup>13</sup> Subsequently the summit called for a national strike in May 2014. After eight days of mobilizations across the country and negotiations in Bogotá, the president signed Decree 870 on May 8, 2014, calling for negotiations between the national government and the summit. These negotiations started in September 2014 and are ongoing.

Key topics include a moratorium on granting mining titles, reforms to education, health and other public services, rights to hold mobilizations, and a special committee on human rights. The special committee, organized with the United Nations Mission in Colombia, called for a series of verification visits responding to denunciations of human rights violations during the mobilization.<sup>14</sup>



Source: SIADDHH

<sup>13</sup> The Popular, Ethnic, Agrarian Summit consists of: Organización Nacional Indígena de Colombia (National Indigenous Organization of Colombia, ONIC), Coordinador Nacional Agrario (National Agrarian Coordinator, CNA), Congreso de los Pueblos, la Mesa de Interlocución y Acuerdos (Roundtable of Dialogue and Agreements, MIA), Marcha Patriótica (Patriotic March), Proceso de Comunidades Negras (Process of Afro Communities, PCN), Mesa de Unidad Agraria (Roundtable of Agrarian Unity, MUA), Asociación Nacional de Zonas de Reserva Campesina (National Association of Reserved Campesina Zones, ANZORC), Coalición de Organizaciones y Movimientos Sociales de Colombia (Coalition of Social Movements and Organizations of Colombia, COMOSOC), and Federación Nacional Sindical Unitaria Agropecuaria (National United Agriculture and Livestock Unionist Federation, FENSUAGRO). Demands of the Popular, Ethnic, Agrarian Summit: <http://congresodelospueblos.org/index.php/pueblo-en-lucha/cumbre-agraria/484-pliego-de-exigencias-de-la-cumbre-agraria>.

<sup>14</sup> "Inicia proceso de negociación del pliego de exigencias de la Cumbre Agraria con el Gobierno Nacional". <http://prensarural.org/spip/spip.php?article15364>.

## Indigenous and Afro-descendant rights: Mega-projects, displacement, homicides and extinction

Colombia has 102 Indigenous groups and more than four million Afro-descendant people.<sup>15</sup> These populations have been victims of a large majority of the country's human rights violations, displacements and forced army conscription. Conditions of malnutrition and poverty are concentrated in the departments of Chocó, Meta, Cauca, Guaviare, Guajira and Córdoba, where a majority are Indigenous, Afro-descendant and peasant farmers<sup>16</sup> – and where there has been growth in extractive industries and mega-projects including mining, oil and gas, hydro-electric, agro-industrial and logging. The growth of these mega-projects has limited local populations' access to and use of their territories, even though these populations have rights to both the surface and subsoil resources<sup>17</sup> as well as the right to prior consultation according to Colombian law. However such groups are rarely able to exercise their legal rights, mainly due to flawed judicial processes and lack of government commitment to enforce the law.

Colombia's Indigenous population faces severe threats to its existence. The Constitutional Court has ordered the state to take urgent measures to assist 35 Indigenous groups currently in danger of physical and cultural extinction. But of the country's 102 Indigenous groups, only 87 are recognized by the state,<sup>18</sup> and 27% of the Indigenous population lives outside the 715 recognized Indigenous reserves.<sup>19</sup> Thus, large numbers of Indigenous people live on ancestral land that is not recognized by the state, which means their rights to the land and natural resources are not respected, and their right to prior consultation does not apply.

Even legal recognition of an Indigenous territory does not necessarily mean its peoples' rights to their land are protected. In July 2010, a mission of the United Nations Permanent Forum on Indigenous Issues received reports that commercial concessions had been granted in 80% of the legally constituted Indigenous reserves without adequate consultation or consent, and without informing the affected communities.<sup>20</sup> Indigenous communities have also suffered high levels of violence. In 2010, there were 14 massive displacements of Indigenous groups that affected 4,061 people,<sup>21</sup> From 2013 to 2014, according to the National Indigenous Organization of Colombia (ONIC), indigenous victims of displacement increased by 87%.<sup>22</sup>

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<sup>15</sup> Peace Brigades International, "Minería en Colombia ¿A qué precio?" PBI Colombia, 2011. [http://www.pbi-colombia.org/fileadmin/user\\_files/projects/colombia/files/colompBIA/111122\\_boletin\\_final\\_web.pdf](http://www.pbi-colombia.org/fileadmin/user_files/projects/colombia/files/colompBIA/111122_boletin_final_web.pdf).

<sup>16</sup> Garay Salamanca, "Minería en", Contraloría General de la Nación, May 2013, p96.

<sup>17</sup> North-South Institute, "Proceso de Comunidades Negras, Resguardo Indígena Cañamomo Lomapieta", in *Holding Extractive Companies to Account in Colombia: An evaluation of CSR instruments through the lens of Indigenous and Afro-Descendent Rights*, July 2012, p16. <http://www.nsi-ins.ca/wp-content/uploads/2012/11/2012-Holding-extractive-companies-to-account-in-Colombia-english.pdf>.

<sup>18</sup> Alto Comisionado de las Naciones Unidas para los Refugiados (ACNUR), "Pueblos indígenas en Colombia". <http://www.acnur.org/t3/pueblos-indigenas/pueblos-indigenas-en-colombia>, quoted in Peace Brigades International, 2011.

<sup>19</sup> Andrade, Luis Evelis. "¿Cuáles son, cuántos y dónde se ubican los pueblos indígenas en Colombia?" Organización Nacional Indígena de Colombia (ONIC). <http://www.onic.org.co/Pueblos.shtml>, quoted in Peace Brigades International, 2011.

<sup>20</sup> Organización Nacional Indígena de Colombia (ONIC), "Colombia: La Minga Continúa", in *MINGA Informativa de Movimientos Sociales*, Nov. 3, 2008. [http://www.movimientos.org/show\\_text.php3?key=13383](http://www.movimientos.org/show_text.php3?key=13383), quoted in Peace Brigades International, 2011.

<sup>21</sup> Consultoría para los Derechos Humanos y el Desplazamiento (CODHES), *Boletín* no. 77, "Consolidación de qué". Bogotá, Feb. 15, 2011, [http://www.codhes.org/index.php?option=com\\_content&task=view&id=1002](http://www.codhes.org/index.php?option=com_content&task=view&id=1002), quoted in Peace Brigades International, 2011.

<sup>22</sup> ONIC, "Datos extraídos de Informes anuales de Derechos Humanos y DIH 2013, Enero-Septiembre 2014", procesados por OCHA Colombia.

ONIC's Human Rights Report for 2014 explains that despite peace talks in Cuba, armed action from military forces or illegal groups was increasing, in addition to forced recruitment, threats, massacres and land mines, all of which result in population displacement.<sup>23</sup>

Killings of Indigenous people have also increased. From January to October 2011 the number of Indigenous people killed in the context of armed conflict jumped 55% from the same period in 2010;<sup>24</sup> 117 Indigenous people were murdered by the end of 2011. This upward trend is happening as peace talks discuss a "post-conflict" Colombia – and as more and more extractive projects start up.

### ***Violations against Indigenous People***

<b>Category</b>	<b>2013</b>	<b>2014 Jan.–Sept.</b>	<b>Variation</b>
Confinement	5,847	236	–96%
Forced displacement	1,506	2,819	+87%
Threats	33	36	+9%
Infant mortality		45	
Homicide	30	10	–67%
Attempted homicide	8	7	–13%
Forced recruitment (including public forces)	4	11	+175%
Intentional harm of protected persons	1	9	+800%
Military action	1	7	+600%
Arbitrary detention	6	1	–8%
Land mines	4	3	–25%
Attack on a humanitarian mission		3	
Attack	1	2	+100%
Fumigation	1	1	0%
Torture		1	
Sexual violence		1	
<b>Total</b>	<b>7,442</b>	<b>3,192</b>	

*Source: National Indigenous Organization of Colombia (ONIC), with figures from the Human Rights and International Humanitarian Law Annual Reports from 2013 and Jan.–Sept. 2014. Processed by OCHA Colombia.*

Afro-descendant people make up 22.5% of the population of displaced people;<sup>25</sup> 30% of Afro-descendants are illiterate, double the national average.<sup>26</sup> Areas with high densities of Afro-descendant

<sup>23</sup> ONIC, "Informe 2014: Consejería de Derechos de los Pueblos Indígenas, Derechos Humanos, Derecho Internacional Humanitario y Paz", 2014. <http://cms.onic.org.co/wp-content/uploads/2014/09/Informe-Anual-2014-Derechos-Humanos-ONIC.pdf>.

<sup>24</sup> North-South Institute, "Proceso", July 2012, p21.

<sup>25</sup> CODHES, "Afrocolombianos desplazados, un drama sin tregua", Bogotá, 2008, quoted in Coalition Colombia-Europe-United States, "The situation of human rights and humanitarian law in Colombia 2008-2012: Report for the Universal

populations are often also areas of extreme poverty. The Afro-descendant population has 159 recognized collective territories, but at least 60% of Afro-descendants who inhabit the Pacific region live outside government-recognized territories.<sup>27</sup> About 6% of all recognized lands of Afro-descendant communities had mining titles in 2012, and 16.5% had requests for mining projects that were awaiting rejection or approval.<sup>28</sup>

Also problematic is the fact that only 3 million of the 34 million hectares of legal communal lands belonging to Indigenous and Afro-descendant communities are suited for agriculture. The rest is jungle and protected forest.<sup>29</sup>

Due to the massive displacement of Indigenous and Afro-descendant groups, 95 Indigenous and 32 Afro-descendant groups have made requests and claims to the Land Restitution Unit for their territories. However, by August 2014 only six of these 127 cases had advanced. By September 2014, only one of those cases, regarding the Embera Katío Indigenous reserve of Alto Andágueda in Bagadó municipality, Chocó department, had been adjudicated.<sup>30</sup>

The slow speed of this process puts these groups' collective territories at risk of incursion by armed actors with private economic interests. In 398 reserves, 202 communities outside reserves and 45 colonial reserves, mega-projects are being considered in territory where INDEPAZ (Institute of Studies for Development and Peace) reports paramilitary activity.<sup>31</sup> "Indigenous and community leaders involved in the process of restitution of lands have been killed, likely by illegal armed actors coveting these lands."<sup>32</sup>

## Labour Rights in Colombia: A History of Violence

Violence against organized workers in Colombia goes back to the "banana massacre" of 1928, when the Colombian Army suppressed a strike by unionized workers at the US-owned United Fruit plantation.<sup>33</sup> Due to persistent violence against unionists throughout Colombian history, the low degree of industrialization, and neo-liberal policies implemented since 1976, only 4% of the Colombian labour force is unionized.<sup>34</sup> The rate of unionization was as high as 17% in 1987 when large-scale repression, threats and murders of union organizers began. Since 1987, 2,942 trade unionists have been murdered,<sup>35</sup> making Colombia one of the most dangerous countries for trade unionists, according to the International Trade Union Confederation (ITUC).

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Periodic Review", May 2013. <http://www.ddhhcolombia.org.co/sites/default/files/informe%20epu%20colombia%202012%20ingles.pdf>.

<sup>26</sup> Gay McDougall, *Report of the independent expert on minority issues*, 2011. <http://www.acnur.org/t3/fileadmin/scripts/doc.php?file=biblioteca/pdf/7476>, quoted in Coalition Colombia-Europe-United States, May 2013.

<sup>27</sup> Comisión Colombiana de Juristas, "Informe sobre la situación del derecho al territorio de los pueblos indígenas y las comunidades afrodescendientes en Colombia", Agosto de 2011, quoted in Peace Brigades International, 2011.

<sup>28</sup> Garay Salamanca, Contraloría General de la República, May 2013, p74-75.

<sup>29</sup> *Semana*, "Informe Especial Así es la Colombia rural", 2012. <http://www.semana.com/especiales/pilares-tierra/asi-es-la-colombia-rural.html>.

<sup>30</sup> "INCODER, Desarrollo rural y política agraria en Colombia, 1960-2012", 2013, p43, quoted in Amnesty International, "A land title is not enough: ensuring sustainable land restitution in Colombia", 2014. [https://www.amnesty.nl/sites/default/files/public/land\\_restiution\\_eng.pdf](https://www.amnesty.nl/sites/default/files/public/land_restiution_eng.pdf).

<sup>31</sup> Peace Brigades Internacional, 2011, p17.

<sup>32</sup> North-South Institute, "Proceso", July 2012, p21.

<sup>33</sup> Renan Vega, "¡Sindicalicidio! Un Cuento (Poco Imaginativo) de Terrorismo Laboral," 2012. <http://www.rebelion.org/docs/147552.pdf>.

<sup>34</sup> Interview with Cristobal Silva, Universidad Nacional teacher and Instituto Nacional Sindical researcher, Feb. 5, 2015.

<sup>35</sup> Confederación Sindical Nacional, "Realising Rights", 2014. [http://www.ituc-csi.org/IMG/pdf/3wc\\_-](http://www.ituc-csi.org/IMG/pdf/3wc_-)

Levels of violence against unionists continue to be alarming. According to the 2013 National Report of Fair Work in Colombia, produced by the National Labour School (ENS), lethal violence and violations to life, liberty and the integrity of the union movement increased in 2013.<sup>36</sup> Two main violent patterns stand out: homicides increased 50% since 2012, and violent attacks on and attempted assassinations of union leaders numbered 2.5 times those in the previous year.<sup>37</sup> (See the table below.)

The Unión Sindical Obrera de la Industria del Petróleo (USO) was victimized in 45 violations from January 1, 2013, to August 15, 2014, including two assassinations.<sup>38</sup> From 2011 to 2014, USO members and leaders in Puerto Gaitán were victims in 24 labour rights violations, including death threats, harassment, arbitrary detention and homicide.<sup>39</sup> Clearly it is dangerous to be a unionist in the oil sector, where Canadian companies have a strong presence.

### ***Violations to Life, Liberty and Integrity against Colombian Unionists, 2012-2013***

Type of Violation	2012 cases	2013 cases	Change (#)	Change (%)
Threats	449	294	-55	-34.5
Forced displacement	90	2	-88	-97.7
Harassment	50	57	+7	+14.0
Homicides	24	36	+12	+50.0
Arbitrary detentions	20	24	+4	+20.0
Attacks with or without wounds	7	18	+11	+157.1
Forced disappearance	5	1	-4	-80.0
Kidnapping	–	2	+2	+100.0
Illegal break-ins	3	2	-1	-33.3
Torture	2	–	-2	-100.0

*Source: Sistema de Información en Derechos Humanos, SINDERH, ENS.*

ENS statistics indicate that during this period 83% of attacks were directed against union leaders.<sup>40</sup> The rate of impunity in cases of violence against unionists was more than 96%.<sup>41</sup>

Colombia's official figures on unemployment hide the reality of a precarious and underemployed workforce. According to the National Administrative Department of Statistics (DANE), the number of

[draft\\_resolution\\_realising\\_rights\\_en.pdf](#)

<sup>36</sup> Hawkins et al., “El TLC Entre Colombia y Canadá”, Escuela Nacional Sindical, October 2014.

<sup>37</sup> Carmen Lucía Tangarife, “Informe nacional de trabajo decente en Colombia, 2013”, Escuela Nacional Sindical, November 2014, p89. [http://ens.org.co/apc-aa-files/45bdec76fa6b8848acf029430d10bb5a/informe\\_de\\_trabajo\\_decente\\_2013.pdf](http://ens.org.co/apc-aa-files/45bdec76fa6b8848acf029430d10bb5a/informe_de_trabajo_decente_2013.pdf).

<sup>38</sup> Hawkins et al., “El TLC Entre Colombia y Canadá”, Escuela Nacional Sindical, October 2014, p38.

<sup>39</sup> Hawkins et al., “El TLC Entre Colombia y Canadá”, Escuela Nacional Sindical, October 2014, p49.

<sup>40</sup> Tangarife, “Informe nacional de trabajo decente”, Escuela Nacional Sindical, November 2014, p82.

<sup>41</sup> José Vidal Castaño, FESCOL, April 2012.

unemployed people increased by 734,166 between 2012 and 2014.<sup>42</sup> However, no minimum earning is required to qualify as employed. Furthermore, job creation has been sluggish, increasing only by 1.7% in 2014<sup>43</sup> and forcing many to work in the informal sector where they earn less than the minimum wage. 55.6%, of Colombians live on less than the minimum wage and in extreme poverty.<sup>44</sup>

Almost four-fifths of the workforce is concentrated in two occupational categories: self-employed (42.8%) and independent contractor (36.4%).<sup>45</sup> This indicates a low probability of finding permanent full-time employment. The Ministry of Labour said the informal sector constituted 68% of the workforce in 2013, but the International Labour Organization reported that the informal economy accounted for 80% of the workforce.<sup>46</sup> The precariousness of work is increased by the contracting system. Workers can be doing the same job for years but have yearly, monthly or even weekly contracts. Companies use such contracting techniques as a form of union-busting, and to be able to fire sick or injured workers and deny other labour rights.

## **Social security, wages, working conditions**

About 70% of Colombia's workforce of 22 million people do not have social security, insurance or benefits provided through employment<sup>47</sup> – a violation of the Labour Code and conventions of the International Labour Organization (ILO).

When Labour Code rights to benefits, insurance and social security are violated, employers face few or no repercussions or sanctions from the Ministry of Labour. In late January 2015, news reports revealed that the Ministry itself had been violating the labour rights of its employees. The majority of employees in the department, 65%, have been subcontracted without vacation time or other benefits. In the last week of January, these workers were working without contracts and/or pay.<sup>48</sup>

This form of contracting tilts the employment model towards precarity and informality. It avoids direct contracting, fails to guarantee minimal labour rights, relies on outsourcing, and results in more than 60% of the labour force having no access to benefits or social security.<sup>49</sup> In 2013 only 39.3% of workers were covered by workers' compensation insurance for on-the-job health and safety risks. This allows employers to accumulate money not spent on workers' benefits, and gives them the flexibility to dismiss workers whenever they want. Various studies show that a short-term contract worker receives 19% less pay per hour than a directly employed worker with a longer contract.<sup>50</sup>

The national average monthly income for Colombian workers in 2013 was US\$345. In the informal sector, which is much less regulated, workers are even less likely to earn minimum wage or receive

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<sup>42</sup> Juan Gossain, "La verdad sobre el Dane y las cifras de desempleo", *El Tiempo*, July 16, 2014.  
<http://www.eltiempo.com/economia/indicadores/la-verdad-sobre-el-dane-y-las-cifras-de-desempleo-/14255077>.

<sup>43</sup> Tangarife, "Informe nacional de trabajo decente", Escuela Nacional Sindical, November 2014, p20.

<sup>44</sup> Gossain, *El Tiempo*, July 16, 2014.

<sup>45</sup> Tangarife, "Informe nacional de trabajo decente", Escuela Nacional Sindical, November 2014, p21.

<sup>46</sup> Colprensa, "Colombia cuarto país en informalidad laboral, según la OIT", *El Pais*, Feb. 9, 2013.  
<http://www.elpais.com.co/elpais/colombia/noticias/colombia-cuarto-pais-informalidad-labora-segun-oit>.

<sup>47</sup> CUT, "La cifra de la tasa de desempleo esconde una precariedad laboral", Feb. 1, 2015.  
<http://cut.org.co/la-cifra-de-la-tasa-de-desempleo-esconde-una-precariedad-laboral/>.

<sup>48</sup> Juan Pablo Calvás, "El ministerio del trabajo informal", *El Tiempo*, Jan. 19, 2015.  
<http://www.eltiempo.com/opinion/columnistas/el-ministerio-del-trabajo-informal/15119836>.

<sup>49</sup> Tangarife, "Informe nacional de trabajo decente", Escuela Nacional Sindical, November 2014, p57.

<sup>50</sup> *Diario La República*: "Temporales reciben 19% menos de ingresos por hora", Sept. 18, 2012.  
[http://www.larepublica.co/economia/temporales-reciben-19-menos-de-ingresos-por-hora\\_20985](http://www.larepublica.co/economia/temporales-reciben-19-menos-de-ingresos-por-hora_20985).

insurance or any benefits. In 2013, the informal sector consisted of 47.8% male and 52.2% female workers, who earn much less than men and live in more precarious conditions.

## Unionization

Despite the dangers faced by workers trying to organize unions in Colombia and the challenges resulting from neo-liberal labour reforms that promote a flexible and precarious workforce, union culture and politics are still strong and important. Half of Colombia's unions belong to three centrals: the Unitary Central of Colombian Workers (CUT), the General Confederation of Workers (CGT), and the Confederation of Colombian Workers (CTC). The CUT is the largest, representing 65% of unionized workers and including large unions such as the Colombian Federation of Educators (FECODE), National Union of Workers from the Agricultural Industry (SINTRAINAGRO) and the Oil Industry Workers' Union (USO).<sup>51</sup>

52% of unionized workers are in the public sector. Despite collective bargaining being a constitutional right, only 25% of unionized workers are truly able to exercise this right due to the type of contract offered by employers. Companies use "collective pacts" to undermine unions and prevent unionization. "Union contracts" are another type of agreement or contracting model introduced by the Uribe government in 2006. The government essentially legalized 'company unions' that work directly with management as employment agencies instead of representing workers. Such is the case with the Unión de Trabajadores de la Industria Energética Nacional (UTEN), the "union" that replaced the USO in Campo Rubiales. Héctor Vaca, USO's secretary of research and education, describes UTEN as "a company union that has been signing union contracts with different companies of the electricity sector. It is a company disguised as a union."<sup>52</sup>

One consequence of precarious employment in Colombia is that few workers have health insurance. This, coupled with the lack industrial safety norms, makes the workplace dangerous. Between 2011 and 2013, the number of deaths on the job doubled from 379 to 753.<sup>53</sup>

Type of Employment Contract	2012		2013	
	Cases	%	Cases	%
Union contract	703	57.4	964	52.8
Collective agreement	307	25.1	459	25.1
Collective pact	215	17.6	204	11.2
Public sector agreement	.		200	10.9
<b>Total</b>	<b>1,225</b>	<b>100</b>	<b>1,827</b>	<b>100</b>

*Source: "VI Informe Nacional de Trabajo Decente presentado por la ENS," Oct, 6, 2014.*

<sup>51</sup> José Vidal Castaño, "Panorama del sindicalismo en Colombia", FESCOL, April 2012.  
<http://library.fes.de/pdf-files/bueros/kolumbien/09150.pdf>.

<sup>52</sup> "La UTEN es una empresa y tiene un contubernio con Pacific Rubiales".  
<http://cut.org.co/la-uten-es-una-empresa-y-tiene-un-contubernio-con-pacific-rubiales/>.

<sup>53</sup> Tangarife, "Informe nacional de trabajo decente", Escuela Nacional Sindical, November 2014, p66.

## Flower industry

Colombia is the world's second-largest flower exporter (after the Netherlands); over half of Canada's flower imports come from Colombia.<sup>54</sup> During the first two years after implementation of the CCOFTA, from 2011 to 2013, imports of Colombian flowers to Canada increased by 24%, primarily because Canada eliminated the tariff of 8% to 10.5% on Colombian flower imports.<sup>55</sup>

Within the flower industry, three-fifths of the workers are women, the majority being single mothers. These women are mostly unskilled labourers and experience high levels of exploitation, low salaries, and seasonal work that makes it difficult to get second jobs.<sup>56</sup> The flower industry relies heavily on demand from foreign countries celebrating Valentine's Day, Mother's Day and other holidays. Peaks and dips in flower demand encourage subcontracting, giving employers flexibility to hire and fire. As in other sectors, subcontracting in the flower industry allows employers to avoid responsibility for working conditions and social security, and weakens the ability of workers to organize and demand their rights.

When introduced as a monoculture in traditionally agricultural zones, the flower industry becomes the principal employer, creating dependency and vulnerability, as communities no longer produce their own food. The industry also damages local economies and institutions because export companies pay property taxes but avoid regular municipal or industry and trade taxes.<sup>57</sup>

## Environment, health and working conditions

As with other industries of mass production, intense cultivation of flowers requires a massive quantity of water. The industry's expansion in the 1980s in the Bogotá Savanna caused over-exploitation of aquifers as well as contamination with cancer-causing chemical fertilizers which directly affect women's reproductive health, leading to miscarriages and premature births. These negative health risks are exacerbated for women who work in the flower industry; cases of congenital malformation in their babies have been reported.<sup>58</sup>

Employees who contract illnesses or are injured on the job receive little support or recognition from their employers. On the contrary, the workers group Cactus<sup>59</sup> reported that a woman with a seasonal contract who suffered an accident on the job was forced by her employer to sign a report admitting her own negligence and absolving the company of responsibility for her injuries. The precarity of the work in flowers obliges workers to accept an intensified work pace, increased responsibilities and poor health and safety conditions in peak season when work is readily available. These conditions include working up to 10 or 12 hours a day, or even 20 to 22 hours a day in the post-harvest season.<sup>60</sup>

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<sup>54</sup> Comité pour les droits humains en Amérique Latine (CDHAL), "Historique de la campagne du 14 février", Feb. 14, 2012. <http://cdhal.org/blog/historique-campagne-14-fevrier>.

<sup>55</sup> Cancilleria. "Tercer informe anual del 'acuerdo en materia de Informes anuales sobre derechos humanos y libre Comercio entre la república de Colombia y Canadá'", Bogotá, May 15, 2014.

<sup>56</sup> Rangel, 2003; Corporación Cactus, 2011; Garzón Henández y Pedraza, 2013; Vargas-Monroy, 2011. Quoted in Erika González, "Las mujeres en la industria colombiana de las flores", Observatorio de Multinacionales en América Latina (OMAL), 2014. [http://omal.info/IMG/pdf/2014\\_informe\\_omal\\_no\\_11.pdf](http://omal.info/IMG/pdf/2014_informe_omal_no_11.pdf).

<sup>57</sup> González, OMAL, 2014, p34.

<sup>58</sup> González, OMAL, 2014, p37.

<sup>59</sup> Cactus, a self-help group, encourages Bogotá-area women flower workers to speak for themselves and offers legal advice and support programs. Cactus helps the women get their rights as workers respected, promotes their participation in local decision-making, and enhances their skills. Cactus works in close partnership with the flower workers' union Untraflores in the flower fields near Bogotá.

<sup>60</sup> Garzón Hernández y Pedraza, 2013, *Páez Sepúlveda*, 2011, quoted in Erika González, OMAL, 2014, p32.



### **CASE STUDY: Labour conditions in Canadian company Pacific Rubiales**

One measure of a company's respect for international labour rights is whether it has a unionized work force. Of the 52 Canadian companies operating in Colombia, only three have a union presence, according to Colombia's National Labour School (ENS).<sup>61</sup>

A clear example of Canadian companies' disregard for labour rights is the case of Pacific Rubiales Energy, a company listed on the Toronto stock exchange (TSX) that produces crude oil and natural gas. Pacific Rubiales has operated the oil fields of Puerto Gaitán, Meta department, since 2010. In 2013, a People's Tribunal on Colombia's extractive industries found it guilty of a series of violations of labour, environmental and Indigenous people's rights.<sup>62</sup>

In 2011, workers began mobilizing through the Union Sindical Obrera de la Industria del Petroleo (USO) in response to substandard working conditions such as 28-day contracts through subcontractors, low pay, and poor sanitary and health conditions.<sup>18</sup> In an attempt to crush the strike and USO's power, Pacific Rubiales terminated the contracts of thousands of workers affiliated to the union, threatened USO leaders, and created a company union that continues to run a slander campaign against USO. None of these violations of Colombia's labour code have led to penalties by labour authorities. The Canadian Embassy considers Pacific Rubiales to be a good "client" and the Export Development Corporation (EDC) highlights Pacific Rubiales on its Colombia page.<sup>63</sup>

## **Extractive sector in Colombia: a resource curse?**

Colombia is the largest producer of emeralds in the world, the largest producer of coal and nickel in Latin America, and an important crude oil producer. In June 2014, Colombia increased its oil production to over one million barrels per day. However, a mapping of the vast mineral wealth produced in Colombia indicates that extraction often takes place on land that was illegally acquired through "land grabbing," a phenomena at the root of many human rights violations and controversies.<sup>64</sup>

### **Canadian and Colombian governments and Canadian companies**

Both the Canadian and Colombian governments and their institutions, plus Canadian corporations, play a role in promoting the extractive industry in Colombia. Canadian extractive multinationals have been involved in Colombia for almost 60 years, during which the Canadian government has disbursed substantial funds to increase market opportunities for private companies. These government programs include export loans and insurance by the Export Development Corporation (EDC); foreign aid funds to rewrite the Colombian mining code to allow deregulation of the industry, ensuring low taxation and royalty payments as well as easy permit and title provisions for multinationals; and the extremely generous investment protections included in the Canada Colombia Free Trade Agreement (CCOFTA).

<sup>61</sup> Hawkins et al, "El TLC Entre Colombia y Canadá," Escuela Nacional Sindical, October 2014, p4.

<sup>62</sup> PASC, "Canadian oil company Pacific Rubiales in Colombia – Fairtrade certified?" <http://pasc.aegir.koumbit.net/en/article/canadian-oil-company-pacific-rubiales-colombia-fairtrade-certified>, modified Jan. 19, 2015.

<sup>63</sup> <http://www.edc.ca/EN/country-info/Pages/colombia.aspx>.

<sup>64</sup> "A Land Title is Not Enough", Amnesty International, 2014.

With small overhead costs, companies can make enormous profits from mining projects while contributing little to local or national economies.<sup>65</sup> That mining projects do not necessarily lead to development and wealth is evident in the top gold-producing departments of Colombia: Chocó, Bolívar, Caldas and Antioquia. In these gold-producing provinces, 67% of the population cannot meet basic household needs.<sup>66</sup>

Prior to implementation of the CCOFTA in 2011, over half of companies planning to undertake mineral exploration work in Colombia were Canadian. By 2013 Canada was the largest investor in Colombia's extractive sector,<sup>67</sup> and 58 of the 70 Canadian companies present in Colombia were extractive ones. By the end of 2012, 9,400 mining titles<sup>68</sup> had been granted and about 19,000 petitions for titles awaited approval.<sup>69</sup> Thanks to the absence of state protection for land tenure, plus the role of military forces in supporting and in some cases participating in evictions of local residents, forty million of Colombia's 114 million hectares are now mining areas,<sup>70</sup> and 40% of the Colombian territory is under mining claim.<sup>71</sup> The largest portion of Canadian investment in Colombia (32.7%) is focused in the mining sector, followed by 24.4% in the financial sector.<sup>72</sup> In 2002, Canadian companies had invested US\$2.134 billion in Colombia; ten years later that number had skyrocketed to US\$15.119 billion.

In 2013, the Comptroller General of Colombia published a report called "Fundamentals to Overcome the Extractive Model," pointing out several problems with the system of granting mining titles. The report said there was little to no institutional communication between the department that grants environmental permits for extractive activities and the department that manages land use and environmental protection plans. As a result, mining concessions are granted in protected areas.<sup>73</sup>

In 2011, 168 mining licences were granted in Indigenous reserves<sup>74</sup> and 236 in Afro-descendant communal territories. Many more requests for titles in these supposedly protected territories await approval. On Indigenous reserves, 8.8 million hectares are designated oil zones, many of which are already licensed for exploration and drilling while others remain in the preliminary observation stage.

"Militarization" is a major problem associated with mining and other extractive industries. "The surge in extractive mining and energy activities in Colombia over the last few years has come accompanied by the massive militarization of the zones where the mining and energy sectors operate," one report notes.<sup>75</sup> The Colombian government has promoted militarization alongside extractive operations through the creation of Energy, Mining and Transport Battalions as part of its policy to attract foreign investment and multinational companies by ensuring their safety and "security." At the beginning of

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<sup>65</sup> Luis Jorge Garay Salamanca, "Minería en Colombia: Fundamentos para superar el modelo extractivista", Contraloría General de la Nación, May 2013. [http://lasillavacia.com/sites/default/files/mineropedia/mineria\\_en\\_colombia.pdf](http://lasillavacia.com/sites/default/files/mineropedia/mineria_en_colombia.pdf).

<sup>66</sup> Hawkins et al., "El TLC Entre Colombia y Canadá", Escuela Nacional Sindical, October 2014, p40.

<sup>67</sup> North-South Institute, Proceso, July 2012, p18.

<sup>68</sup> According to Federico Rengifo, Minister of Mines and Energy, quoted in *El Espectador*, Dec. 4, 2012, and in Garay Salamanca, Contraloría General de la República, May 2013, p24.

<sup>69</sup> Garay Salamanca, Contraloría General de la República, May 2013, p24.

<sup>70</sup> Ibid.

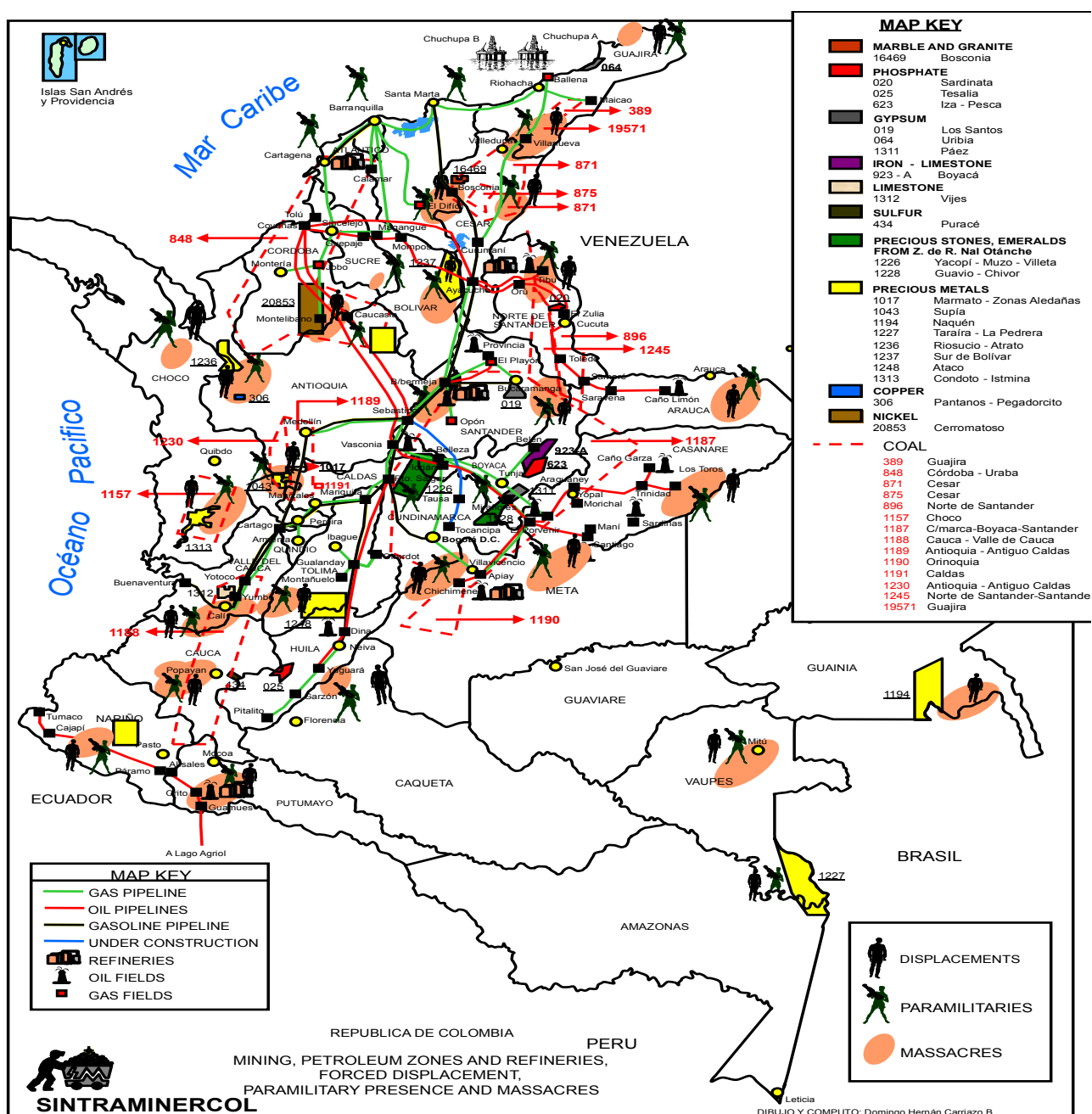
<sup>71</sup> Mario Valencia, du Réseau Colombien Face à la Grande Industrie minière Transnationale (RECLAME), quoted in Susan Abad, "La Colombie, un pays en concession : l'extraction minière sans discrimination affecte la durabilité environnementale et culturelle", *Noticias Aliadas*, April 6, 2011.

<sup>72</sup> Hawkins et al., "El TLC Entre Colombia y Canadá", Escuela Nacional Sindical, October 2014, p25.

<sup>73</sup> Garay Salamanca, Contraloría General de la República, May 2013, p24.

<sup>74</sup> "Informe sobre la situación del derecho al territorio de los pueblos indígenas y las comunidades afrodescendientes en Colombia", Bogotá, August 2011, quoted in Peace Brigades International, 2011, p17.

<sup>75</sup> Tomás Gisbert and María Jesús Pinto, "Colombia: Militarisation serving extraction", War Resisters International, March 9, 2014. <http://www.wri-irg.org/node/23010>.



Source: SINTRAMINERCOL (Union of Workers from the National Mining Company)

2011 there were 11 Energy and Mining battalions; by 2014 there were 21. These battalions comprise 80,000 soldiers, accounting for 37% of all land-based army forces in Colombia.<sup>76</sup>

In 2011, Alejandro Martinez, president of the Colombian Petroleum Association (ACP), said the oil sector had contributed about US\$500 million through contracts with the Colombian military forces in the past four years.<sup>77</sup> Colonel Parra León told the press that the Canadian company Pacific Rubiales

<sup>76</sup> Gisbert and Pinto, "Colombia: Militarisation serving extraction", War Resisters International, March 9, 2014.

<sup>77</sup> Jairo Chacón González, "Seguridad debe venir del Estado": Asociación Colombiana del Petróleo", *El Espectador*, Aug. 9, 2011. <http://www.elspectador.com/noticias/economia/seguridad-debe-venir-del-estado-asociacion-colombiana-d-articulo-290720>

had provided trucks and fuel for the military to secure a company oil field.<sup>78</sup> The battalions' primary function is to protect foreign investment<sup>79</sup> rather than local populations. Communities surrounding resource extraction sites are targets of violence and the armed conflict, creating forced displacements and destabilizing community life.<sup>80</sup>

In these zones, a variety of social organizations have reported that some multinationals have financed paramilitary groups to protect themselves or to displace communities from lands that they covet.<sup>81</sup> The Consultancy on Human Rights and Displacement (CODHES) found a large military and paramilitary presence in mining zones: "The Armed Forces protect private investment and paramilitaries suppress social protest and create displacement."<sup>82</sup>

### **GREYSTAR / ECO ORO SHOWCASE**

The Angostura mining project of Greystar Resources, currently known as Eco Oro, illustrates the role of Canadian mining companies in the Colombian armed conflict. The project started in 1995 in the municipality of California, Santander department, and was bought by Greystar in 2004. The company suspended activities for years after one of its executives was kidnapped. Subsequently, Greystar employed a tactic used by many multinational companies. It made a pact with the army and the paramilitaries to "clean" the zone and demarcate the mine. It paid for the installation of a military base and also bought land in the zone.

Greystar provided logistical support to establish a security operations base, and part of the troops' mandate is to ensure the viability of the company's mining operations. Company vice-president Frederick Felder confirmed this in an interview with *El Tiempo*, stating that installation of the High Mountain Battalion improved security and gave Greystar more tranquility. Military and police are present in Greystar's camp in the town of Angostura, as well as two military encampments within the project's exploration area. The High Mountain Battalion can shelter 500 soldiers.

"The company (Greystar) describes its private security system: 'Our security department is composed of a colonel, two majors, one sergeant, two guards ... They are retired military personnel, and it is preferable to have a few high-level personnel [rather] than numerous poorly qualified employees. They mainly do intelligence work. They stay in contact with the police and the Army and let them know when there are problems.'"

The Collaborative for Development Action (CDA) reported: "the company has employed up to 80 people in security functions." Felder explained further: "We have a comprehensive security program which has taken three-and-a-half years to put in place. It is exceptional, and we have been

<sup>78</sup> Redacción Llano 7 Días "Llegarán 400 militares a batallón energético en Rubiales", Aug. 1, 2011. <http://www.ideaspaz.org/tools/download/55081>.

<sup>79</sup> Gisbert and Pinto, "Colombia: Militarisation serving extraction," War Resisters International, March 9, 2014.

<sup>80</sup> Guadalupe Rodríguez, "Rebelión contra la minería de oro en Colombia", *Otramerica*, July 10, 2011. <http://otramerica.com/temas/rebelion-contra-la-mineria-del-oro-en-colombia/410>, quoted in Peace Brigades International, 2011.

<sup>81</sup> "Ochenta empresas financiaban a paramilitares del Bloque Norte: Así lo denunció el ex militante, alias 'donAntonio'", *El Espectador*, Feb. 3, 2010. <http://www.elespectador.com/noticias/judicial/articulo185699-ochenta-empresas-financiaban-paramilitares-del-bloque-norte>, quoted in Peace Brigades International 2011.

<sup>82</sup> CODHES, "¿Consolidación de qué?", *Information Bulletin* no. 77, February 2011, quoted in Peace Brigades International, 2011.

fortunate to have been given support by all levels of government. All ministries have helped us, and this includes the president himself.”

*Information from “The Impact of Canadian Mining in Latin America and Canada’s Responsibility” (Working group on Mining and Human Rights in Latin America, 2014) and Interpares, “Land and Conflict,” 2009.*

## Royalties, taxes and tax evasion

The Colombian Comptroller General’s report on the extractive sector calculated that for every 100 pesos a foreign company pays to the Colombian government in royalties, it gets 132 pesos back through tax exemptions.<sup>83</sup> In 2011, the North-South Institute stated, “75% of royalties that come from mining are ‘compensated,’ affecting the total amount received by the country. In 2009, for example, the country received \$1.9 billion COP [Colombian pesos] in royalties, and gave back in exemptions \$1.4 billion COP.”<sup>84</sup>

In a 2009 report,<sup>85</sup> the Auditor General expressed concern that the Colombian government was inadequately equipped to measure crude petroleum production, so it relied on figures provided by the mining and oil companies to calculate royalties. An April 2013 report of the National Mining Agency, Colombia’s senior mining authority, agreed that infrastructure to measure mineral extraction was lacking because there was no state control in many oil-rich areas.<sup>86</sup>

Tax evasion is also a huge problem. In 2012, approximately US\$50 billion was reported to have left the country bound for Caribbean tax havens.<sup>87</sup> In 2013, la Red por la Justicia Tributaria (Network for Tax Justice) found that financial transfers between Colombia and the British Virgin Islands totalled US\$611 million. While money flows out of Colombia through exploitation of natural resources, the country maintains a trade deficit.<sup>88</sup>

## Environmental, social and community impacts

Colombia’s extractive industry has had many negative effects on the environment, including depletion of water resources, water contamination from chemicals used in extraction and processing, changes in flora and fauna, desertification, irreversible damage to fragile and unique ecosystems, and acceleration of climate change processes.

As previously mentioned, many supposedly protected areas have been given away to multinational companies for exploration and extraction. Two examples are concessions of mining titles in páramo (alpine tundra) zones: the Angostura project of Canadian company Eco Oro in Santurban, and Anglo-Gold Ashanti’s La Colosa project in Cajamarca.<sup>89</sup> Páramos, unique alpine ecosystems that release

<sup>83</sup> Garay Salamanca, “Minería en Colombia”, Contraloría General de la Nación, May 2013, p154.

<sup>84</sup> North-South Institute, “Proceso”, July 2012, p7.

<sup>85</sup> “Informe de auditoría gubernamental con enfoque integral modalidad regular ministerio de minas y energía vigencia 2009”, Contraloría General de la Nación, 2009.

<sup>86</sup> Mario Alejandra Valencia, Uniciencia Contaduría publica, “Análisis del Caso Pacific Rubiales”, 2013. [http://justiciatributaria.co/wp-content/uploads/2013/05/DOCUMENTO\\_PACIFIC-RUBIALES.pdf](http://justiciatributaria.co/wp-content/uploads/2013/05/DOCUMENTO_PACIFIC-RUBIALES.pdf)

<sup>87</sup> Héctor Sandoval Duarte, “Dineros que se fugaron del país ascienden a US\$50.000 millones ‘¿Tranca’ a los paraísos fiscales?” *El Espectador*, Nov. 17, 2012. <http://www.elespectador.com/noticias/economia/tranca-los-paraisos-fiscales-articulo-387646>.

<sup>88</sup> Mario Valencia, Uniciencia, 2013.

<sup>89</sup> Mining Watch Canada, “World Bank investment in Eco-Oro minerals Colombia to be audited”, July 4, 2013. <http://www.miningwatch.ca/news/world-bank-investment-eco-oro-minerals-colombia-be-audited>.

and absorb fresh water, are found in Colombia, Ecuador, Venezuela, Peru and Costa Rica – but Colombia is home to 60% of them.<sup>90</sup> Páramos account for 75% of Colombia's fresh water and are home to a great variety of flora and fauna, many of them found only in the páramo system.

As Colombia is the most bio-diverse country in the world per square kilometre,<sup>91</sup> and simultaneously the third-most affected country by climate change,<sup>92</sup> lax or absent environment controls on the extractive industry leaves room for practices that contribute to environmental destruction.

Apart from dangerous and contaminating environmental practices by mining companies, “mining activity in Latin America provokes divisions in the communities and fractures in the social fabric,” when differing opinions are held on whether the multinational project will bring more harm than aid to the community.<sup>93</sup> Companies often promise development, jobs, money and general prosperity, but these promises generally remain unfulfilled and communities are left divided and changed. These extractive projects awaken people's economic expectations, which can lead to internal migration in the hope of finding work. However, the extractive sector does not actually generate many jobs, leading instead to unemployment, under-employment and poverty.<sup>94</sup>

## Artisanal miners

Colombia has three types of mining activities: 1) small-scale artisanal mining often practised by Afro-Colombian and indigenous peoples or peasants; 2) medium-scale mining using machinery like dredgers and backhoes; and, 3) large-scale mining, often open-pit mining by multinational companies. Current Colombian law insists that all these forms of mining comply with the same requirements, even though their products, environmental impacts, economic benefits, state protection and tax exemptions differ.<sup>95</sup> Small and medium mining activities are registered in about 44% of Colombian municipalities, providing a living to an estimated five million people.<sup>96</sup>

As the government is currently formalizing mining activities, small-scale and artisanal miners are being criminalized because of contaminating practices – even though they are seeking assistance from the state to improve their practices and have asked for protection from multinational companies and informal medium-scale mining. Medium-scale mining threatens these communities because it is largely controlled by organized crime or paramilitary groups.<sup>97</sup> Illegal medium-scale mining is tolerated and used as a way to invade and control territories in order to get rid of artisanal miners and open the way for multinationals.

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<sup>90</sup> Mining Watch Canada, “Urgent Action: Protect Vital Wetlands in Colombia from Canadian Mining Project”, Jan. 21, 2011. <http://www.miningwatch.ca/get-involved/urgent-action-protect-vital-wetlands-colombia-canadian-mining-project>

<sup>91</sup> Garay Salamanca, Contraloría General de la República, 2013, p93.

<sup>92</sup> Germanwatch, “Global Climate Risk Index 2010 “ quoted in Garay Salamanca, Contraloría General de la República, 2013, p93.

<sup>93</sup> Working Group on Mining and Human Rights in Latin America, “The impact of Canadian mining in Latin America and Canada's responsibility”, 2014.

<sup>94</sup> Garay Salamanca, Contraloría General de la República, 2013, p58.

<sup>95</sup> Peace Brigades Internacional, 2011.

<sup>96</sup> Andy Robinson, “Los mineros artesanales se ven acosados por paramilitares, la guerrilla y el Gobierno”, *La Vanguardia*, Oct. 9, 2011. <http://www.lavanguardia.com/vida/2011/10/09/54228739798/oro-antioqueno-a-punta-de-ametrallado-ra.html>.

<sup>97</sup> Moritz Tenthoff, “Siguiendo la ruta de la minería en el Cauca”, *La Silla Vacía*, Aug. 14, 2014. <http://lasillavacia.com/content/siguiendo-los-pasos-de-la-mineria-en-el-cauca-48380>



## Privatization of the oil industry

Colombia's privatization of public services has opened a large part of the economy to market forces, making these services available to those who can pay as opposed to an inalienable right of all.<sup>98</sup> As in other economic sectors with precarious labour markets, private companies performing public services reduces workers' job stability, salaries and rights to organize. As key sectors of the economy are transferred to foreign companies, national sovereignty and economic stability are threatened, while the quality of services provided significantly decreases and fewer people can afford them. These consequences are especially evident in health care; however, privatization of the state oil company is most relevant to this report given its connection to Canadian interests.

Ecopetrol was created in Colombian law in 1948 and established in 1951 when the contract of the US oil giant Tropical Oil Company expired. Ecopetrol's birth was the result of years of mobilizing and striking by oil workers affiliated to the USO union, who fought for better working conditions and for profits from the country's oil wealth to be re-invested into state coffers.

Though this historic labour battle was fought over 60 years ago, USO unionists and activists today face the same challenges due to the growing privatization of Ecopetrol. In his 2002 Development Plan, then-president Álvaro Uribe announced increased private participation at the refinery in Cartagena, one of Ecopetrol's central assets.<sup>99</sup> Beginning in 2003, 20% of the company was sold to private entities and the National Agency of Hydrocarbons was created to fulfill Ecopetrol's former function of administering oil reserves. This privatization saw an upsurge in contracts with multinational companies that benefit from the state's lax royalty policy, depriving state budgets of financial resources that could pay for social programs such as health care. Privatization also compromised the labour conditions of petroleum workers,<sup>100</sup> and has led to increased repression against their union – USO – which continues to defend the national sovereignty of Colombia's natural resources.<sup>101</sup>

In July 2014, USO, along with the CUT union central and various social and political organizations, formed the Alliance to Return Campo Rubiales to Ecopetrol in 2016.<sup>102</sup> This campaign is directed against a contract with the Canadian-based company Pacific Rubiales, and attempts to revert one of Colombia's most productive oil fields back to state hands so that profits from the 190,000 barrels it produces daily will benefit Colombia.<sup>103</sup>

Now USO leaders worry about further privatization of Ecopetrol, as refineries in Barrancabermeja and Cartagena need modernization and repair, the price of crude oil has declined, and Ecopetrol plans to embark on new ventures such as fracking and tar sands projects.

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<sup>98</sup> Robledo, "Causas y consecuencias de privatización".

<sup>99</sup> "La Privatización de Ecopetrol, un gran negocio en contra del interés nacional," <http://www.moir.org.co/la-privatizacion-de-ecopetrol-un.html>.

<sup>100</sup> Héctor Yesid Vaca, "ECOPETROL rumbo a la privatización." *USO Nacional*.

<sup>101</sup> "La Privatización de Ecopetrol".

<sup>102</sup> "USO Returns to Campo Rubiales". <http://pasc.aegir.koumbit.net/en/article/union-sindical-obrero-returns-campo-rubiales>.

<sup>103</sup> <http://senado.gov.co/sala-de-prensa/senadores-noticias/item/21431-senadores-de-varios-partidos-piden-que-campo-rubiales-pase-a-ecopetrol?tmpl=component&print=1>.

## Land and Restitution

Concentration of land ownership in the hands of the elite has historically been central in Colombia's social-economic history. It was a driving factor in the development of violence and the armed conflict, and continues to be an important issue in the conflict today. According to official statistics, 1% of landowners own 52% of the country's farmland — one of the most unequal land distribution rates in the world, according to the United Nations. 86.6% of landowners possess just 8.8% of registered land.<sup>104</sup>

So far, efforts to address land inequality have not succeeded, largely because such initiatives have failed to focus on the overall structure of land ownership. More often than not, land redistribution efforts are corrupted and end up enriching those who manage the projects. For example, employees from INCODER (the Colombian Institute of Rural Development, formerly INCORA) granted state-owned land meant for peasants to landowners, companies, illegal armed groups and corrupt politicians.<sup>105</sup>

Another obstacle to just land reform was a law passed in 2002 under the presidency of Álvaro Uribe, during high levels of conflict and forced displacement. In 2002 alone, 412,553 people were forced to leave their homes. "Law 791, approved in December 2002, cut by half the amount of time required to legalize possession over lands that an individual had occupied to a period of five years in cases where the land was deemed to be held in good faith, and 10 years where the occupier was deemed to be holding the land in bad faith."<sup>106</sup> This law essentially allowed those who were participating in, and benefiting from, displacement to legalize their illegal land seizures more quickly, and prevent the displaced owners from reclaiming it.

## Displacement

Colombia has one of the largest populations of internally displaced people in the world. By 2014 about six million people,<sup>107</sup> nearly 13% of the population, had been forced out of their places of origin by armed groups that took possession of the land. Close to eight million hectares of land, 14% of Colombia's territory has been illegally acquired in this manner.<sup>108</sup>

Displacement is still a major issue: In the first half of 2014, more than 64,500 people were officially declared as newly displaced and were awaiting registration, and 24,000 people were registered by the National Victims Unit, a project under the Victims Law of the government of President Juan Manuel Santos.<sup>109</sup>

As a result of actions taken by the state, new types of forced displacement have arisen. For example, inhabitants of the southwest department of Huila have been displaced by the Quimbo hydroelectric

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<sup>104</sup> Héctor Mondragón, "Especulación con la tierra contra la soberanía alimentaria". *Deslinde* no 49. Bogotá, 2011

<sup>105</sup> "A Land Title is Not Enough: Ensuring Sustainable Land Restitution in Colombia", Amnesty International, 2014.

<sup>106</sup> CODHES, *Boletín Informativo de la Consultoría para los Derechos Humanos y el Desplazamiento* no. 75, April 22, 2009.

<sup>107</sup> "2015 UNHCR country operations profile – Colombia", UNHCR, 2015.  
<http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e492ad6&submit=GO>.

<sup>108</sup> "A Land Title is Not Enough: Ensuring Sustainable Land Restitution in Colombia", Amnesty International, 2014.  
<http://www.amnesty.org/es/library/info/AMR23/031/2014/en>.

<sup>109</sup> "2015 UNHCR country operations profile – Colombia", UNHCR, 2015



project. Artisanal miners whose work was made illegal in the 2001 Mining Code were also legally displaced. “In some cases, the intervention of public security forces is used to evict the artisanal miners and make them respect the rights of the company.”<sup>110</sup> This has been the case in the conflict-ridden Segovia municipality in the northeast of Antioquia department, where public agents have repeatedly shut down traditional and small mining, captured and displaced people because these projects were supposedly operating within the concession of Canadian gold giant Gran Colombia Gold.<sup>111</sup>

### **MARMATO CASE**

Gran Colombia Gold, a Canadian-based mining company, is doing preliminary work on the Marmato project in Caldas department, which aims to displace 5,000 people. On August 29, 2011, Father José Reynal-Restrepo Idárraga, the leader of a civic committee opposing the Marmato project, was murdered. Shortly before his death, the priest had noted that his fight against the mega-mining project could cost him his life.<sup>112</sup>

These large-scale mining projects – as well as the infrastructure developments, agro-industrial and agro-fuel projects of both national and international companies – often require or benefit from forced displacement and land grabbing in areas where they will operate. Both paramilitary and state security forces have participated in displacement and land grabbing.<sup>113</sup>

## **Land restitution, conflicts, risks and gender discrimination**

In 2011, Law 1448, commonly referred to as the Law of Victims, established a 10-year program called the Land Restitution Unit as a mechanism to return illegally acquired land to their rightful owners with legal titles and other forms of reparations. The Colombian government declared it had until 2021 to redistribute two million of the nearly seven million hectares of illegally acquired land. However, over the past three years the government has resolved only 854 cases covering a total of 18,464 hectares. At this rate, achieving the Land Restitution Unit's stated goal will take centuries.

Many critics of Law 1448 have stated that most of the zones given priority for restitution are of interest to the extractive industry. According to one media source, 80% of oil and gas projects and more than 20% of mining projects coincide with the 78 municipalities that the Land Restitution Unit has considered a priority.<sup>114</sup> Some worry that “the law could encourage the continuation of some agro-industrial projects that were either the reason for the forced displacement in the first place, or were initiated in the wake of land theft resulting from human rights abuses.”<sup>115</sup>

The process of redistributing land through land restitution is complicated by the lack of official documentation of land titles and registrations. Where records do exist and have not been deliberately destroyed, they are often damaged, incorrect, out of date or forged. Land restitution relies heavily on

<sup>110</sup> Defensoría del Pueblo, Defensoría Delegada para los Derechos Colectivos y del Ambiente, “La Minería de Hecho en Colombia”, 2010. <http://www.defensoria.org.co/red/anexos/publicaciones/mineriaColombia.pdf>, quoted in Working Group on Mining and Human Rights in Latin America, “The impact of Canadian Mining in Latin America and Canada’s Responsibility”, 2014.

<sup>111</sup> Working Group, 2014.

<sup>112</sup> *Semana*, “Proyectos mineros en el socavón”, 2010. <http://www.semana.com/economia/articulo/proyectos-mineros-socavon/353676-3>, Working Group, 2014.

<sup>113</sup> “A Land Title is Not Enough”, Amnesty International, 2014.

<sup>114</sup> Garay Salamanca, Contraloría General de la República, 2013, p93.

<sup>115</sup> “A Land Title is Not Enough”, Amnesty International 2014, p41.

prior documentation and official claims to the land. Women often encounter difficulties in the land restitution process due to the lack of official documentation designating them as landowners or even occupants. Their male partners or husbands are often the only ones named in legal documentation.<sup>116</sup>

In addition to the slow bureaucratic process and slow follow-through of the restitution process, those who make land claims often face grave risks. Data from the office of the Attorney General indicates that at least 35 people involved with the land restitution process had been killed by the end of August 2014. Six of them had made claims to the Land Restitution Unit.<sup>117</sup>

The restitution process favours a certain model of rural development on disputed or stolen land. This model is based on large-scale agro-industrial exports rather than on subsistence and small-scale farming. It promotes mega-projects and subsidizing large-scale exploitation of land, posing challenges to land claimants wishing to return to small-scale and subsistence farming. Small-scale farming is also under attack through state institutions that promote agro-industrial projects not only through favourable policies but also through agricultural funds such as INCODER.

## Canadian Presence in Colombia

Colombia is Canada's fifth-largest trading partner in Latin America, an established market for Canadian businesses, and a priority country under Canada's Strategy for Engagement in the Americas and its Global Markets Action Plan. In 2014, Colombia became a "focus country" for the Government of Canada's international development efforts, with the stated goals of improving human rights, encouraging sustainable economic growth, combatting poverty, and helping confront the decades of violence that have plagued Colombia.<sup>118</sup> The government published a list of programs publicly funded by Canada, including:

- Global Peace and Security Program (42 projects granted \$14,859,494 as of 2009<sup>119</sup>)
- Canadian Governance Program Evaluation<sup>120</sup>
- Military Training and Cooperation Program

The Military Training and Cooperation Program, run by the Canadian Armed Forces and Department of National Defence, started in the 1960s and works across Latin American and Caribbean countries to "foster defence relations"<sup>121</sup> between countries of the region. Since its inception it has trained 4,800 soldiers in Latin America and the Caribbean. Every year, Canada's directorate of military training and cooperation sponsors a "Peace Support Operation" in Colombia.<sup>122</sup>

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<sup>116</sup> "A Land Title is Not Enough", Amnesty International 2014, p43.

<sup>117</sup> "A Land Title is Not Enough", Amnesty International 2014, p34.

<sup>118</sup> Foreign Affairs, Trade and Development Canada, "Colombia", modified Oct. 21, 2014.

<http://www.international.gc.ca/development-developpement/countries-pays/colombia-colombie.aspx?lang=eng#a2>.

<sup>119</sup> Foreign Affairs, Trade and Development Canada, "Evaluation of the Global Peace and Security Fund", modified Aug. 22, 2014, [http://www.international.gc.ca/department-ministere/evaluation/2011/gpsf\\_fpsm11.aspx?lang=eng](http://www.international.gc.ca/department-ministere/evaluation/2011/gpsf_fpsm11.aspx?lang=eng).

<sup>120</sup> Foreign Affairs, Trade and Development Canada, "Partnerships with Canadians Governance Program Evaluation 2008-2012 – Final Report". <http://www.international.gc.ca/department-ministere/evaluation/2014/dev-pcgpe-epgpc14.aspx?lang=eng>, modified July 22, 2014.

<sup>121</sup> National Defence and the Canadian Armed Forces, "The Canadian Armed Forces' Engagement in the Americas". <http://www.forces.gc.ca/en/news/article.page?doc=the-canadian-armed-forces-engagement-in-the-americas/hie8w7sf>, modified Oct. 10, 2014.

<sup>122</sup> National Defence and the Canadian Armed Forces, "The Canadian Armed Forces' Engagement in the Americas".

The Royal Canadian Mounted Police (RCMP) maintains a police officer training program in Colombia. Colombian forces have also received training under the Canadian government's Chemical, Biological, Radiological and Nuclear (CBRN) Strategy, under a public safety department that combats CBRN terrorism against Canada and its allies. This training prepared Colombian forces to respond to terrorist threats as well as dealing with nuclear security, protection upgrades, border security, training and technical assistance.<sup>123</sup>

## Canadian CSR: holding companies accountable

Canadian mining companies' international assets have increased in the past 10 years to a value of \$210 billion from \$30 billion. Along with this growth, "there has been growing recognition over the past decade, both nationally and internationally, that the domestic and foreign operations of Canadian corporations have considerable impact on human rights protection,"<sup>124</sup> Amnesty International states. Several attempts have been made to define the human rights responsibilities of companies and "establish frameworks for holding companies accountable for any failure to meet those responsibilities."

In March 2010 in Toronto, the Canadian government established the Office of the Extractive Sector CSR Counsellor as part of a strategy called "Constructing the Canadian Advantage."<sup>125</sup> In this office groups and communities that have been affected directly by Canadian mining companies abroad can solicit examination of their cases.<sup>126</sup> However the office's power to mediate disputes depended on the voluntary participation of the company complained about. Many companies walked away from offers of mediation with no consequences. "The counsellor was not a judge, and the process of examination was not a tribunal";<sup>127</sup> it only assisted in establishing a dialogue. In four years the counsellor did not mediate any of the six cases brought before her, and none of the complainants received a remedy.

In 2011, the mining industry won \$6.7 million from the Canadian International Development Agency (CIDA) for three pilot projects featuring industry-NGO partnerships to build local leader capacity and support for mining projects. CIDA also committed \$20 million to the Andean Regional Initiative, which advances NGO partnerships with mining companies in Colombia, Peru and Bolivia.<sup>128</sup> Many civil society groups view the projects as subsidies to the mining companies, and think it is not an acceptable use of public funds or an appropriate use of aid dollars.<sup>129</sup>

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<sup>123</sup> Foreign Affairs, Trade and Development Canada, "Summative Evaluation of the Global Partnership Program". [http://www.international.gc.ca/departement-ministere/evaluation/2013/gpp\\_ppm13.aspx?lang=eng](http://www.international.gc.ca/departement-ministere/evaluation/2013/gpp_ppm13.aspx?lang=eng), modified Dec. 8, 2014.

<sup>124</sup> Amnesty International, "2015 Human Rights Agenda for Canada". <http://www.amnesty.ca/sites/default/files/canadahumanrightsagenda16december14.pdf>, accessed June 9, 2015.

<sup>125</sup> Foreign Affairs, "Trade and Development Canada. Office of the Extractive Sector Corporate Social Responsibility (CSR) Counsellor. Background". [http://www.international.gc.ca/csr\\_counsellor-conseiller\\_rse/Background-Contexte.aspx?lang=eng](http://www.international.gc.ca/csr_counsellor-conseiller_rse/Background-Contexte.aspx?lang=eng), modified July 26, 2013.

<sup>126</sup> Foreign Affairs, Trade and Development Canada, "Building the Canadian Advantage: A Corporate Social Responsibility (CSR) Strategy for the Canadian International Extractive Sector". <http://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/csr-strat-rse.aspx>, modified Jan. 12, 2015.

<sup>127</sup> International Human Rights Program, University of Toronto, Faculty of Law, "Disputed Ground: A Community User's Guide to the Review Process of the Office of the Extractive Sector Corporate Social Responsibility Counsellor" [http://ihrp.law.utoronto.ca/utfl\\_file/count/documents/WorkingGroup\\_Clinic/IHRP Disputed Ground\\_Final\\_August 2011.pdf](http://ihrp.law.utoronto.ca/utfl_file/count/documents/WorkingGroup_Clinic/IHRP%20Disputed%20Ground_Final_August%202011.pdf).

<sup>128</sup> Jen Moore, "Canadian Development Aid No Longer Tied – Just Shackled to Corporate Mining Interests", Mining Watch, March 27, 2014. <http://www.miningwatch.ca/article/canadian-development-aid-no-longer-tied-just-shackled-corporate-mining-interests>.

<sup>129</sup> Canadian aid for mining projects concerns NGOs, Trinh Theresa Do, [CBC News](#) Posted: Feb 26, 2014 5:00 AM ET.

In 2014 Canada's enhanced Corporate Social Responsibility (CSR) Strategy was announced. It stated that the Government of Canada expects Canadian companies to promote Canadian values and operate under the highest ethical standards when abroad.<sup>130</sup> Companies are supposed to follow Canadian CSR guidelines, and those that do not should have Canadian government support for them in foreign markets withdrawn. This initiative seems to have potential to make long-needed changes, even though many details remain vague. Canadian civil society organizations joined together in the Canadian Network on Corporate Accountability (CNCA) "have called on the Canadian government to build on this small but important first step."<sup>131</sup>

## Export Development Canada (EDC)

As stated on its website, the EDC is a crown corporation that assists Canadian businesses in taking advantage of growing markets in the global south: Growth in emerging markets is expected to outpace the developed world for some time. These regions, which include China, India, Brazil as well as others in emerging Asia, and Andean region countries such as Colombia, where we opened a representation in 2013, represent 30 per cent of our customers' overall business, and are the markets that Canadian businesses need to penetrate for continued growth."<sup>132</sup>

EDC claims to value and promote the protection of human rights, and is granted access to Canadian government intelligence on the human rights situations of many countries.<sup>133</sup>

The Canadian government provides broad support to the extractive sector without requiring sufficient guarantees from Canadian companies that they will not harm the environment or cause human rights violations in other countries, a report by the Halifax Initiative concluded. In some cases, the Canadian government has supported extractive projects even after it became aware of amply documented environmental abuses and human rights violations. Canada offers Canadian mining companies political, economic and legal privileges that have extremely negative consequences for human rights where the projects are developed. The report finds that the political and economic support Canadian companies receive – through mechanisms such as Export Development Canada (EDC), the Investment Board of the Canadian Pension Plan, and CIDA – comes with inadequate controls to prevent human rights violations in the countries where these companies operate.

In 2011, EDC provided more than \$17 billion in financing and insurance to the extractive sector, its biggest beneficiary. In spite of EDC falling under the Access to Information Act, virtually no public information is available about its decision-making processes. Nor does EDC disclose how it evaluates proposals from clients; the conditions, if any, it imposes on financing; how it evaluates whether clients comply with conditions and/or the pertinent regulations; and how it deals with noncompliance.

*Canadian Network on Corporate Accountability, "Dirty Business, Dirty Practices: How the Federal Government Supports Canadian Mining, Oil and Gas Companies Abroad", Halifax Initiative, 2007.*

<sup>130</sup> <http://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/csr-strat-rse.aspx?lang=eng>.

<sup>131</sup> Amnesty International, 2015 Human Rights Agenda for Canada <http://www.amnesty.ca/sites/default/files/canadahumanrightsagenda16december14.pdf> accessed June 9, 2015.

<sup>132</sup> Export Development Canada (EDC), "2013 Annual Report: Turning the Corner on Trade". <http://www.edc.ca/EN/About-Us/Corporate-Reports/Documents/annual-report-2013.pdf>.

<sup>133</sup> EDC, "EDC Statement on Human Rights". <https://www.edc.ca/EN/About-Us/Corporate-Social-Responsibility/Documents/human-rights-statement.pdf>.

However, the EDC has been a major backer of the infamous crude oil producer Pacific Rubiales, despite being informed of the company's unsatisfactory human rights record. In 2014 the EDC gave US\$48.5 million to Pacific Rubiales,<sup>134</sup> and has also partnered with Petrominerals, Gran Tierra Energy and Canacol – all Canadian-based companies with troubling human rights records in Colombia.

### **PACIFIC RUBIALES**

In 2014 the EDC gave US\$48.5 million to Pacific Rubiales, despite the company:

- being condemned by a Colombian court for disregarding prior consultation requirements with Indigenous people
- being called out for dumping production waste water over the limits permitted by environmental licences
- having flagrant lapses in accounting, including great disparities between its production reports to investors and figures published by the Colombian Department of Mines and Energy
- suing journalists for informing the public about its activities
- failing to respect freedom of association and labour rights

Other evidence presented to a 2013 public hearing on Pacific Rubiales Energy held by the People's Tribunal on the Natural Resource Extraction Industry in Colombia can be seen at <http://pasc.ca/en/article/report-hearing-canadian-oil-company-pacific-rubiales-energy#Title5>

In June 2015, the EDC announced further promotion and support for Canadian investment in Colombia when it signed a memorandum of understanding (MOU) with Colombia's National Development Bank (Financiera de Desarrollo Nacional, "FDN") that will lay the groundwork for EDC and FDN to collaborate on infrastructure projects, and will also help EDC identify opportunities for Canadian companies to connect to those projects. The EDC assesses that Colombia's economy is booming, and its infrastructure development is accelerating to keep pace. EDC hopes to entrench financial opportunities for Canadian companies in the market so that they are ready to engage when opportunities arise.<sup>135</sup>

### **Militarization in the midst of the peace process**

Amidst historic peace talks between the Revolutionary Armed Forces of Colombia (FARC) and the Colombian government, Canada, through the Canadian Commercial Corp., sold 32 combat and troop transportation vehicles (LAV II) to Colombia.<sup>136</sup>

In December 2012, only a few months after ratifying the Free Trade agreement with Colombia, Canadian Foreign Affairs Minister John Baird amended a regulation regarding the export of automatic weapons to allow military sales to Colombia. This made Colombia the first Latin-American country allowed to receive these types of weapons from Canada.<sup>137</sup>

<sup>134</sup> EDC, "Export Development Canada provides financing of USD 48.5 M to Pacific Rubiales" July 23, 2014. <http://www.edc.ca/EN/About-Us/News-Room/News-Releases/Pages/pre-pull-financing-2014.aspx>.

<sup>135</sup> EDC News Release <https://www.edc.ca/EN/About-Us/News-Room/News-Releases/Pages/FDN-Colombia-MOU.aspx>, accessed June 7, 2015.

<sup>136</sup> PASC, "Despite peace negotiations, Canada sells 32 tanks to Colombian government", Jan. 26, 2015. <http://pasc.ca/en/article/despite-peace-negotiations-canada-sells-32-tanks-colombian-government>.

<sup>137</sup> PASC, "Despite peace negotiations", Jan. 26, 2015.

Amnesty International Canada and Project Ploughshares strongly advocate withdrawal of this amendment, arguing that “until the Colombian authorities fully implement UN human rights recommendations, there can be no guarantee that arms transfers to Colombia will not exacerbate its human rights crisis.”<sup>138</sup>

## Peace in Colombia?

Without a doubt, the war has had a tremendous human and financial toll on Colombia and its people. The country’s yearly investment in security is \$23 billion Colombian pesos, which is 14% of the national budget.<sup>139</sup> Two-fifths of this goes towards soldiers’ salaries (\$9.3 billion pesos a year).

The Colombian government and the Fuerzas Armadas Revolucionarias de Colombia (FARC)<sup>140</sup> began highly publicized “peace talks” in Cuba in 2012, aimed at ending the country’s five-decade civil war – the western hemisphere’s longest-running conflict. The talks have been disrupted several times by government military offensives in light of the FARC declaring a unilateral ceasefire. The two sides have agreed on three of the six major points of the peace agenda including land reform, political participation and illicit drugs; they are now tackling issues of justice and reparations for victims, and the terms demobilizing rebels and implementing peace.

Colombian social movements have always argued for a negotiated solution to the country’s social and armed conflicts, and the talks in Cuba are a source of hope for the millions of Colombians affected by the war. However, the peace process in Havana addresses only Colombia’s armed conflict, not the social and economic conditions that gave rise to the conflict.<sup>141</sup> Social movements have their own agenda for peace and are concerned that the Santos government refuses to negotiate a change to the country’s development model. Some have expressed fears that the peace process is a distraction for the mega-development process taking place in Colombia. Since this economic model and land rights are the two major roots of the armed conflict, these root issues must be resolved in order to create a lasting peace.

Mechanisms for popular participation in the peace talks in Havana are limited. They include online comments, travel to Cuba by a few representatives, and forums organized by the United Nations for each point of the “official agenda.” Several coalitions have been organized within Colombia’s social movements to find a way to actively participate in the peace process.<sup>142</sup>

Clamor Social por la Paz and the Frente Amplio por la Paz have worked together to organize national forums for peace to coordinate their demands. These include an immediate ceasefire, the opening of a real negotiation process with the two other guerrilla groups – the Ejército de Liberación Nacional (ELN) and Ejército Popular de Liberación (EPL) – and an agenda to reach lasting peace. Social

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<sup>138</sup> Amnesty International Canada and Project Ploughshares, “Joint Submission [to the] Consultation Regarding the possible addition of Colombia to the Automatic Firearms Country Control List (AFCCCL)”, Oct. 26, 2012. <http://ploughshares.ca/wp-content/uploads/2013/01/AFCCCLsubmission20Oct202012.pdf>.

<sup>139</sup> *Dinero*, “El precio de la paz”, Sept. 13, 2012. <http://www.dinero.com/edicion-impresa/caratula/articulo/el-precio-paz/159613>.

<sup>140</sup> FARC is the oldest and largest group among Colombia’s left-wing guerrilla armies. The group’s roots can be traced back to the civil war between the Liberal and Conservative parties that raged from 1948 until 1958.

<sup>141</sup> For the 10 point conclusions of the Historic Commission, see: *Semana*, “Comisión Histórica: Conflicto ha producido enormes consecuencias negativas”, Feb. 10, 2015. <http://www.semana.com/nacion/articulo/comision-historica-dialogos-de-paz-la-habana/417556-3>.

<sup>142</sup> Clamor Social por la Paz, a convergence of churches, social organizations and victims’ organizations and Frente Amplio por la Paz, which is more of a political platform.



movements have also focused on humanitarian issues like prison conditions, conflict resolution on the ground, and the safe removal of landmines. The ten-year-old National Movement of Victims of State Crimes (MOVICE) demands that the Colombian state acknowledge the role it played in the disappearance, torture and killings committed by its armed forces during the conflict.<sup>143</sup> MOVICE has raised public awareness of the Colombian state's role as an actor in the armed conflict, rather than as a victim of a war between two other groups. It argues that a bilateral ceasefire is integral to achieving peace, because peace cannot be negotiated in the midst of a war.

As mentioned in "Land and Restitution" above, Law 1448 created the National Victims Unit to facilitate reparations and redistribution of land to displaced victims of the conflict. Unsettled under Law 1448 is the question of impunity, which could determine the long-term success of the project. There has been little official investigation into those accused of criminal responsibility in forced displacements. This lack of effort to identify, investigate and prosecute those who participated in illegal land seizures and forced displacements, and the failure to dismantle the economic and political structures that sustained them, is deeply problematic. These people have so far been allowed to continue their illegal actions with impunity, and are also often those responsible for violence against activists and land claimants.<sup>144</sup>

Political prisoners are a key but often forgotten part of the peace process. Colombia's prison movement demands more recognition of political prisoners as victims of the conflict, and an end to violations of their human rights. Networks like the National Prison Movement, comprising political prisoners and other incarcerated people, are fighting to improve the abhorrent conditions in Colombia's penitentiary system and to protect prisoners' mental and physical health. Support from international organizations is crucial; in many cases it can mean the difference between life and death. For example, international campaigns supported political prisoners Miguel Beltran (a National University teacher), Lilliany Obando (also a teacher), and USO members. International unions and NGOs have made a difference by raising the profile of such cases with letters and phone calls.

## Development model

Peace initiatives try to implement certain models of development, another measure of who truly wins the peace. The model being proposed by Colombia's ruling class and business elites continues the neo-liberal economic project.<sup>145</sup> This model is also being pushed by European Union-funded 'Peace Laboratories,' which promote monoculture projects to produce African palm, rubber, and cacao.<sup>146</sup>

Also expectantly awaiting the end of negotiations with the FARC are international agriculturalists such as large-scale Argentinean and Brazilian farmers who see an opportunity to expand their monoculture soy and corn production into Colombia for both export and internal consumption.<sup>147</sup> This international interest in land for mass production and exportation will likely drive up the price of land and make subsistence even more difficult for small-scale farmers.

To Colombian social movements, it is clear that the conflict is far from over, although the government has pushed this idea to foreign capital and donors in order to encourage investment. While the government talks about post-conflict peace, it is simultaneously building new military bases and releasing

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<sup>143</sup> MOVICE, "Quienes somos?" <http://www.movimientodevictimas.org>.

<sup>144</sup> Amnesty International, 2014, p56.

<sup>145</sup> Gearóid Ó Loingsigh, "Laboratorios de Paz de la Unión Europea ¿El Plan Colombia de Europa?", *Prensa Rural*, December 2005. <http://www.prensarural.org/gol20051216.htm>.

<sup>146</sup> Ó Loingsigh, *Prensa Rural*, December 2005.

<sup>147</sup> Carlos Pagni, "La economía de la paz", *El País*, Aug. 11, 2014. [http://internacional.elpais.com/internacional/2014/08/11/actualidad/1407789860\\_819728.html](http://internacional.elpais.com/internacional/2014/08/11/actualidad/1407789860_819728.html).

paramilitary leaders from jail. Human rights defenders and unionists are still being attacked and threatened daily; and the armed conflict is more active than ever in the Arauca and Putumayo departments, and the Catatumbo region.

Any armed group can forcibly recruit people, generally young people, into their ranks. As a daily practice, the Colombian Army situates trucks in poor neighborhoods and drafts young people who have not resolved their military status and lack the *libreta militar* (military service card). In 2011 the Constitutional Court ruled this practice illegal through Judgment C-879,<sup>148</sup> but it continues to this day. Army General Jorge Suarez declared that raids to draft young men into the military are legal because the army cannot survive without young people to serve the country.<sup>149</sup>

## Conclusion

This report has documented issues in Colombia's ongoing human rights crisis in the context of Canada's role. These issues include land ownership, forced displacement, poor enforcement of the Colombian labour code, human rights violations, and the potential for the peace process to result in true and lasting peace with social justice. The report also provides several case studies of specific Canadian companies' operations and impacts on local communities, the environment and the economy. It provides an overview of the initiatives of the Canadian government to address the problem of lax or nonexistent enforcement of corporate responsibility for environmental and human rights violations.

The implementation of the CCOFTA and a broader examination of Canada's trade regime raises more general concerns regarding Canada's trade policies and neglect of human rights enforcement. This is of concern beyond the Colombian case, as Canada has trade agreements with other countries with mining, oil and gas production – and where evidence is growing of widespread human rights abuses.

Referring to the strong investor protections in bilateral and multilateral agreements, the United Nations had similar concerns about trade and investment agreements and human rights. It drew attention to the potential detrimental impact of these treaties and agreements on the enjoyment of human rights as enshrined in legally binding instruments, whether civil, cultural, economic, political or social.<sup>150</sup>

Canada has squandered its opportunity to address the human rights crisis in Colombia by treating CCOFTA's human rights addendum as an unwelcome imposition. In 2008, the International Trade Committee (CIIT) had recommended "an independent, impartial and comprehensive human rights impact assessment by a competent body subject to independent levels of scrutiny and validation."<sup>151</sup> But the Canadian government agreed only to a watered-down requirement proposed by the Liberals that required the two governments to each prepare annual reports assessing the agreement's human rights impact.

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<sup>148</sup> <http://www.corteconstitucional.gov.co/relatoria/2011/c-879-11.htm>.

<sup>149</sup> Las batidas de reclutamiento continuarán: general Jorge Suárez", Feb. 5, 2015. <http://www.kienyke.com/politica/las-batidas-de-reclutamiento-continuaran-general-jorge-suarez/>.

<sup>150</sup> UN experts voice concern over adverse impact of free trade & investment agreements on human rights, <http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=16031&LangID=E>, accessed June 9, 2015.

<sup>151</sup> UN High Commissioner for Human Rights, "Recommendation #4 to the Government of Canada", [http://www.ccic.ca/\\_files/en/working\\_groups/003\\_apg\\_2009-06\\_cfta\\_hr\\_assess\\_of\\_cfta\\_note.pdf](http://www.ccic.ca/_files/en/working_groups/003_apg_2009-06_cfta_hr_assess_of_cfta_note.pdf).



Canada has produced four such reports since implementation of the CCOFTA, none of which mentions one of the most significant trade-related concerns for human rights advocates: “the rapidly increasing presence of extractive companies in and around the territories of Indigenous peoples at a time when one-third of Indigenous nations in Colombia are at the brink of physical or cultural extermination.”<sup>152</sup> Instead, the reports absolve the government of the responsibility of commenting on or addressing the impact of Canadian investments in these and other sectors.

We ask that Members of Parliament engage in an open and transparent debate on the human rights situation in Colombia and Canada’s role in it, and that Canada fulfill its legal obligation to conduct a thorough and meaningful human rights impact assessment of the Canada-Colombia Free Trade Agreement, including an analysis of the impact of investments on human rights.

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<sup>152</sup> Amnesty International, 2015 Human Rights Agenda for Canada  
<http://www.amnesty.ca/sites/default/files/canadahumanrightsagenda16december14.pdf>, accessed June 9, 2015