

**Policy Brief on the Americas 2022**  
**Presented by the Americas Policy Group to Global Affairs Canada**

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## Introduction

Composed of more than twenty civil society organisations, including international development and humanitarian NGOs, human rights organisations, labour unions, faith-based and solidarity groups, and research institutions, the Americas Policy Group (APG/GOPA) works as a collective to achieve its mission.

The APG strives to:

- Monitor, share, and report member and partner experiences and analysis on human rights and social justice issues in Latin America and the Caribbean;
- Enhance the capacity of members to undertake policy work concerning the region;
- Participate collectively in relevant international networks;
- Dialogue with government officials, policymakers, and advocate for policies to protect human rights and promote social and environmental justice in the Americas.

Furthermore, the APG and its member organisations have a history of active collaboration with civil society organisations in Latin America and the Caribbean. Many APG members participate in regular visits to the region, others have regional offices or field staff, and all have regular contact with local partner organisations, policy analysts, and human rights defenders in multiple countries.

To achieve its work APG has two subgroups, the Mesoamerica and Colombia working groups that closely follow the situation in each region. There is also a Steering Committee

that ensures the day-to-day administrative work and optimization of the mission of the organisation.

Concretely, the APG is dedicated to:

- Research, analysis, and documentation;
- Information sharing and awareness-raising;
- Policy advocacy and mobilisation; and
- Holding learning events

Following the meeting of February 1, 2022 with Global Affairs Canada, the APG is enthusiastic about building a closer relationship with GAC employees and officials. This collaboration can flourish on common interests by information sharing and raising awareness around certain cases on the ground as well as maintaining open and constructive channels of communication.

## Diagnostic and recommendations by priority issues

### 1) Human rights (primacy and upheld standards)

Members of the Americas Policy Group, together with our partners in Latin America, are concerned about a number of trends across the region, amongst other things:

- The violent repression by state security forces of peaceful, legitimate social protest. We saw this during the horrendous crackdown on the Paro Nacional in Colombia that started in April 2021 and resulted in dozens of deaths, thousands of injuries, illegal arrests and detentions<sup>1</sup>, as well as hundreds of cases of sexual violence and gender-based violence perpetrated by state forces<sup>2</sup>. However, Colombia is far from the only country where those who take to the streets to express dissent are brutally attacked by state security forces. Another glaring example is Guatemala's recent decision to declare a state of siege and deploy heavily armed security forces to El Estor nickel mine. This occurred as Maya Q'eqchi' community members protested the continued operation of the mine, once Canadian-owned and long accused of violating Indigenous rights,<sup>3</sup> despite a Court suspension order.
- The high numbers of threats, attacks and assassinations of human rights defenders, as well as misuse of the justice system to criminalize and jail defenders, especially those whose efforts put them on a collision course with powerful economic interests. Latin America is the most dangerous region in the world to defend land, territory and the environment. This is an issue that has to be on Canada's radar given human

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<sup>1</sup> Sánchez-Garzoli, G. (August, 31, 2021). Repression of Colombia's National Strike Continues Amid Post-Accord Violence. *WOLA*, <https://www.wola.org/2021/08/repression-colombia-national-strike-post-accord-violence/>.

<sup>2</sup> Foggin, S. (June 23, 2021). 'The risk you run': Colombia's women protesters on sexual violence, *BBC News*, <https://www.bbc.com/news/world-latin-america-57553316>.

<sup>3</sup> Masek, V. (November 16, 2021). Guatemala Cracks Down on Q'eqchi' Resistance in El Estor. *Nacla*, <https://nacla.org/guatemala-maya-resistance-el-estor>

rights violations against opponents of Canadian investments or in areas where Canadian companies are looking to operate.

- The failures by governments across the hemisphere to uphold the UN Declaration on the Rights of Indigenous Peoples and guarantee the rights and very lives of Indigenous peoples. Indigenous and Afro-descendant peoples continue to be among the poorest, least educated, least employed citizens regardless of the country. They are also disproportionately affected by armed violence in remote territories, a situation that has worsened with the COVID-10 pandemic in many countries.
- The alarming rates of femicides and gender-based violence throughout the region, the lack of investigation of these crimes, inadequate protection and attacks on women seeking justice.
- The enormous gap between climate justice rhetoric and protection of the rights of those on the frontlines of the climate emergency.
- Related to all of this, is the plight of massive numbers of people on the move in search of safety from violence or the destruction of livelihoods or both. And at the same time, flagrant failures on the part of governments to uphold international protection obligations for those in need of asylum.

Our civil society partners on the ground and the social movements they work with have a wealth of expertise and understanding to offer when it comes to solutions that address the root causes of current human rights crises in the Americas. We offer the following recommendations:

- We call for a human-rights-based foreign policy towards the Americas that gives primacy to upholding commitments under the range of international human rights treaties and covenants to which Canada is a party. Trade and investment considerations must not trump human rights.
- We also urge consistency and coherence in Canada's engagement throughout the region, without which Canada's voice for human rights protection not only in the Americas but around the world is undermined. Outspoken denunciation of human rights abuses in some countries, while remaining silent on others, undermines Canada's standing and potential for positive impact. Lima Group denunciations of Venezuela, for example, given the human rights record of many Lima Group member countries, was rife with double standards and hypocrisy that put its agenda in question, and the reputation of Canada with it.
- With regards to a worsening crisis in Colombia, where Canada has influence as a major donor to peace-building and a partner in the Canada Colombia Free Trade Agreement, as well as via other programs of cooperation, the Americas Policy Group is calling for a coherent, whole-of-government approach. Such an approach would bring together Canada's foreign policy, international aid, trade and investment, and immigration agendas in the defence of human rights. Canada must use its diplomatic leverage to advance human rights and peace-building in Colombia. But this also means that Canada must review how its own foreign affairs policy and trade and investment interests may also undermine peace.

- Canada also has a close multifaceted relationship with Mexico but action to protect human rights must be prioritised, amidst numerous worrying indicators, that include more than 90,000 disappearances. We have prepared a detailed policy brief on Mexico with recommendations that we urge you to consider.
- Finally, we are sounding the alarm about the deteriorating situation for human rights in Nicaragua, El Salvador and Guatemala. As we said in our recent Op Ed in The Hill Times, “economic imperatives behind Canada’s promotion of Canadian mining projects must not trump international obligations to protect human rights and threatened human rights defenders. As an endorser of the UN Guiding Principles on Business and Human Rights, Canada knows only too well what those obligations are.”

## 2) Indigenous, Afro-descendants and tribal communities

- In most countries of the region, Indigenous and Afro-descendent communities continue to be disproportionately affected by threats, attacks by criminal groups, armed groups, and government security forces that fight over their territories and natural resources. In many of these cases, Canadian extractive companies have benefited from this already alarming human rights context, exacerbating violence. In the first 31 days of 2022 alone, 13 human rights and environmental defenders were assassinated, seven of whom were Indigenous and Afro-descendant. A 14-year-old Indigenous child is one of the latest victims added to this gruesome list<sup>4</sup>.
- Equally alarming, communities opposed to extractive Canadian megaprojects that do not respect their collective rights to self-determination in countries such as Brazil, Mexico and Guatemala continue to face violence, displacement, and evictions from the violent installation of these megaprojects. We are aware of how Canadian mining companies have taken advantage of the pandemic to further advance or push forward their mining projects with the support of local governments. In 2021 alone, we received several urgent calls for solidarity from Guatemala from Indigenous communities such as the Xinka communities of Guatemala who resisted a Canadian mining company over concerns about the potential impacts of mining on water, health, and livelihoods and have been facing threats and violent attacks for doing so.
- Our partners also highlight that Canadian officials promote Canadian corporate interests to the detriment of their collective rights and the ecosystems they depend on. Indigenous and Afro-descendant women in positions of leadership, who already face systematic discrimination, and who in the exercise of their right to self-determination, have decided to say no to mining, report being targeted and threatened by Canadian mining companies. The Canadian diplomatic mission in Ecuador, for example, hasn’t made any public statement condemning the violence against Josefina Trunki, the president of the Shuar Arutam People from the Ecuadorian Amazon despite multiple calls to do so. The embassy has thus failed to uphold the Canadian feminist foreign policy that calls for the empowerment of

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<sup>4</sup> Daniels, J. P. (January 18, 2022). Shock in Colombia over murder of 14-year-old indigenous activist, *Guardian*, <https://www.theguardian.com/global-development/2022/jan/18/colombia-indigenous-activist-murdered-14-breiner-david-cucuname>

Indigenous women and their political participation and is reinforcing impunity for corporate abuses.

In light of this alarming situation, we call on the government of Canada to:

- Uphold its obligations to protect the internationally recognized collective rights of Indigenous peoples; in particular the right to self-determination, meaningful consultation and decision-making about their territories, in compliance with their right to Free, Prior and Informed Consent. We are looking forward to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples Act that came into force on June 21, 2021.
- Ensure that all complaints of militarization and human rights violations against Indigenous peoples and Afro-descendant communities in order to open their territories for Canadian extractive companies are investigated, processed and judged and ensure that victims of violence and their families have access to justice.
- Halt diplomatic support to Canadian-based companies accused of Indigenous human rights violations and environmental harm and conduct an in-depth investigation of these crimes.

### 3) Environmental justice and corporate accountability

- Land and environmental defenders' efforts to defend ecosystems with rich biodiversity often clash with the interests of many business-oriented actors in the region. Canadian businesses, especially in the mining sector (noting that 50 to 70 % of mining in Latin America is Canadian), have been widely involved in human rights violations and environmental damage in Latin America.
- Environmental and land defenders continue to risk threats, intimidation and even attacks in multiple countries. Global Witness recorded 227 land and environmental defenders killed in 2020<sup>5</sup> – an average of more than four people a week. Over a third were linked to natural resource extraction. This situation is widespread throughout Latin America and especially alarming in Colombia, the most dangerous country for environmental defenders in the past years notwithstanding the signing of the Peace Accords in 2016. Women, Indigenous, and people of African descent are particularly targeted by this kind of violence.
- Despite the high numbers of assassinations of land and human rights defenders and the call of many civil society organizations for measures of security, especially in contested ancestral territories, these calls are not reflected in concrete policies, which translate into high levels of impunity in countries like Brazil, Colombia, Mexico and Honduras.

Latin American organisations, as well as international bodies, are putting pressure on Canada to act on human rights violations. For at least a decade UN bodies have been

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<sup>5</sup> Global Witness. (September 13, 2021). Global Witness reports 227 land and environmental activists murdered in a single year, the worst figure on record, *Global Witness*, <https://www.globalwitness.org/en/press-releases/global-witness-reports-227-land-and-environmental-activists-murdered-single-year-worst-figure-record/>

calling on Canada to act to address these abuses, special hearings have taken place at the Inter-American Commission on Human Rights focused on the impacts of mining in Latin America, multiple parliamentary hearings have been heard from those impacted by corporate abuse and issued recommendations, and delegations, letters from Latin American organisations and partners have called on Canada to move beyond voluntary measures to ensure their rights are respected. Considering these urgent calls, we make the following recommendations to the Canadian government:

- Ensure that Canadian companies are not linked to or involved in serious environmental damage and hold Canadian corporations accountable by developing laws and policies that keep them accountable for the protection of human rights. Canada must ensure that human rights violations are well documented and resolved under the corresponding legal body.
- Ensure the implementation of existing environmental rights frameworks and emerging instruments like the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean - Escazú Agreement. Canada has international human rights obligations which include protecting people from human rights abuses, including abuse by third-party actors like corporations operating abroad. Those obligations should be upheld by Canada in countries with governance gaps or ongoing political conflict, where we call on Canada to take the corresponding actions to ensure the respect of human rights by Canadian corporations.
- The announcement of the creation of the Canadian Ombudsperson for Responsible Enterprise (CORE) has not been met with the appropriate government commitment to properly respond to the needs of human rights defenders. We stress the need to grant the CORE independent investigatory powers<sup>6</sup>.

#### 4) Feminist foreign policy

- While some Latin American states have consistently adopted progressive gender legislation in the last decades, gender gaps remain high in the region, and violence against women in all its forms is experiencing a steady increase.
- Femicides, domestic violence, sexual violence and other forms of gender-based violence are on the rise, with Indigenous and Afro-descendant women disproportionately represented as large-scale mining and other extractive activities continue to be a driver of gender inequality and gender violence.
- Persistent violence and political instability in countries like Honduras, Colombia and El Salvador, as well as weak democratic institutions in many countries, exacerbate gender inequalities and violence. Civil society organizations also denounce increased cases of violence against women as a result of the COVID-19 pandemic.
- Despite the alarming situation, there is widespread impunity for perpetrators of gender-based violence. Despite being a key economic player in Latin America,

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<sup>6</sup> CNCA. (n.d.). An Ombudsperson with Teeth. Accessed on March 22, 2022, <https://cnca-rcrce.ca/campaigns/ombuds-power2investigate/>



Canada has not developed effective justice mechanisms to deal with gender-based violence in the region.

We maintain that efforts to address these issues need to be backed by the international community. We welcome Canada's commitment to the development of a feminist foreign policy and we think such policy could help address the problems discussed. Some APG members participated in the consultation regarding the new policy and strongly recommend for the government to:

- Prioritize a human rights-oriented feminist and intersectional approach across all elements of the government's foreign policy, including, development, trade and investment, political and economic diplomacy, defence, consular services, and immigration and refugee policy. The Feminist Foreign Policy Working Group strongly believes that such a foreign policy would help address structural inequalities and contribute to a more just and sustainable world.
- Ensure effective coherence between the policies that Canada promotes and implements domestically and internationally.
- Support a "civil society space" in order to create an enabling environment for participation and democracy.

## 5) Trade and investment and labour rights

- The APG is concerned that some international trade mechanisms continue to hinder efforts to advance inclusive and sustainable models of development nationally. For example, the Investor State Dispute Settlement (ISDS) - which was dropped in CUSMA but remains in place for existing bilateral FTAs and Foreign Investment Protection Agreements (FIPAs) in the Americas - limits governments' policy space to promote domestic objectives, especially environmental regulation and the capacity to ban or regulate resource extraction projects. According to the Canadian Centre for Policy Centre 2019 report, Canadian investors targeted developing countries in 86% of Canadian ISDS cases outside North America even though only 41% of total Canadian investment abroad is hosted by developing countries. Half of the cases were brought against countries in South and Central America, and among them, most were directed at resource management measures and environmental protection measures<sup>7</sup>.
- Furthermore, while Canada is promoting gender chapters and mainstreaming GBA+ into new and modernised trade agreements, the measures advocated lack enforcement mechanisms and don't give enough consideration to the impacts of agreements on women in partner countries and beyond the corporate and business sectors or small and medium enterprises (SMEs).

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<sup>7</sup> Mertin-Kirkwood, H. and Smith, B. (2019). Digging for Dividends The Use and Abuse of Investor-State Dispute Settlement by Canadian Investors Abroad. *Canadian Center for Policy Alternative*, <https://policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2019/04/Digging%20for%20dividends.pdf>

Recommendations for the Canadian government:

- Incorporate GBA+ analysis to all aspects of trade agreements and include a GBA+ analysis of the impacts of trade agreements on women and gender-diverse individuals in partner countries in the Americas.
- Actively promote the implementation of the ILO and emerging instruments such as C190 on Violence and Harassment convention and C189 - the Domestic Workers Convention.
- Ensure extensive consultation with a wide range of civil society actors (including labour unions, feminist organizations, Indigenous organizations, disability rights organizations, etc.) prior to negotiating new FTAs.
- Provide funding for cooperation between Canadian labour and civil society actors and Latin American counterparts to encourage freedom of association and the right to collective bargaining.
- Eliminate ISDS mechanisms in existing and future trade agreements.
- Incorporate strong labour rights provisions in all trade agreements and consider the use of a facility-specific Rapid Response Labour Mechanism such as now exists in North America in other agreements.
- Adopt mechanisms to evaluate the impacts of global and regional value chains and sanction firms that are employing forced labour and child labour, and incorporate human rights concerns into evaluation mechanisms.
- Respect its promise to impulse a green, equitable, and inclusive post-COVID economic recovery and extend this commitment to international trade.

## 6) Migration

- Migration is a key issue currently affecting the whole region. Latin America produces more migrants, refugees and asylum seekers than ever before. In addition, Latin America presents some of the highest rates of internally displaced people (IDPs), with Colombia being the main IDP producer in the world with over 8 million IDPs<sup>8</sup>. Mass displacement continues even after the signing of the Peace Agreement and has actually intensified under the current administration of Yvan Duque.
- In addition to resulting in widespread violations of human rights in the regions, massive and unstable migration flows deeply affect North America with migrant flows moving northward from Central America and other countries.
- Migrant rights activists have also been voicing their concern about Canada's Seasonal Agricultural Worker Program and Temporary Foreign Worker Program's limited protection for worker rights, especially in the context of COVID-19.
- Large-scale migration in Latin America reflects not only state failures in countries like Venezuela or ongoing armed conflict and violence related to drug trafficking and official complicity in Colombia and the Northern Triangle, but also pervasive insecurity and desperation in many countries. Crime, violence, extreme poverty, corruption, impunity, environmental degradation, and racism are leading factors for

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<sup>8</sup> IOM (December 16, 2021). Colombia Crisis Response Plan. Retrieved from <https://crisisresponse.iom.int/response/colombia-crisis-response-plan-2021>



the largest increase in refugees, asylum seekers, and other vulnerable and displaced populations in decades<sup>9</sup>.

- The APG also denounces the increased vulnerability of women, children and LGBTQ+ people in migratory routes.

The APG calls on Canada to fulfil its commitment to: “addressing the root causes of migration and investing in the region prioritising cooperation for development to create economic opportunity for all. We are looking to promote regular migration pathways through labour mobility programs, especially in the agricultural sector, including the intent to develop a dialogue to share expansion plans, best practices, and lessons learned for temporary worker visa programs. We support multilateral efforts to develop value chains and physical infrastructure in the Americas that will generate employment and equitable growth. We pledge to help countries better respond to natural disasters, institutional challenges, and reduce food insecurity” (North American Leaders Summit, NALS - 2021).

Concretely, we call on the Canadian government to:

- Support peace and democracy efforts through relevant actions that affect the underlying causes of migration in the Northern Triangle and adopt human rights-oriented approaches to migration throughout the continent in the Northern Triangle. We strongly suggest targeting the issues of law enforcement, intelligence, judicial, and sanctions tools against transnational human trafficking organizations.
- Enhance regional capabilities by coordinating efforts on a region-wide basis with capable partners including civil society, multilateral organisations and human-rights friendly private actors.
- Reinforce migration mitigation goals in domestic policy decisions and development of pan-American strategies.
- Rescind Safe Third Country Agreement with the US and oppose all Safe Third Country Agreements.
- Encourage countries with inadequate migration frameworks to make appropriate reforms and provide accompaniment.
- Make the violations of workers’ rights in Canadian labour mobility programs a central concern. Provide open visas to allow low-skill workers to move between employers in order to allow them to escape situations of abuse.

## Conclusion

In conclusion, the policy brief has stressed the need for urgent actions to protect human rights in Latin America, especially in the areas of Indigenous, Afro-descendants, tribal rights, environmental justice and corporate accountability, feminist foreign policy, trade, investment, labour rights and migration. Drawing on the evidence provided in this document, the APG strongly recommends that Canada:

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<sup>9</sup> Sabatini, C, and Wallace, J. (October 6, 2021). Migration in Latin America. *Chatham House*, <https://www.chathamhouse.org/2021/10/migration-latin-america>

- Promote human rights-oriented policies that place the realisation of international human rights treaties, including those targeting indigenous collective rights, as a priority over corporate interests.
- Prioritize a feminist and intersectional approach across its foreign policy, including, in the areas of development, trade and investment, political and economic diplomacy, defence, consular services, and immigration and refugee policy and ensure the consistency of Canada's rhetoric and actions towards human rights in the Americas and worldwide.
- Take concrete actions to ensure that people who are victims of human rights violations have access to the proper channels to denounce injustices and receive the proper form of justice.
- Design policies informed by the actions and expertise of civil society organisations on the ground and ensure ongoing dialogues between the Global North and the Global South.