

## Embassy Magazine

### Human rights accountability in trade with Colombia

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This week marks the coming into force of the Canada-Colombia free trade agreement. The event starts the clock not only for new calculations on tariffs and trade policy in both countries, but also the start of the period in which the Canadian and Colombian governments must track the agreement's effects on human rights.

The Colombia trade deal was historic in Canada as the flagship initiative of the Canadian government's Americas Strategy. But it was also a lightning rod for public debate on human rights and trade.

One of the by-products of this debate, which dogged the agreement's passage through Parliament for close to three years, is a historic new treaty. The treaty uniquely requires the governments of both countries to report annually to their legislatures on the impacts of the deal on human rights in both countries.

Will this new treaty be a force for accountability for the effects of trade and investment on human rights? That is an important question because major claims were made by both governments that the agreement would bolster efforts to consolidate democracy and protect human rights in Colombia. Canadians have heard an encore performance of this tune this past week as Ottawa signed a trade agreement with Honduras, yet another Latin American government fighting a legitimacy crisis at home and abroad by signing a trade deal with Canada.

The familiar arguments are based on the theory that trade agreements generate economic growth, that this growth will benefit the poor and, with other supportive actions, will help secure a stronger democratic climate and respect for human rights. The historical evidence for each of these claims is highly questionable.

Trade and investment have played a significant role in the paths many developing countries have taken towards greater economic prosperity and equality, but never through rapid liberalization. The latter has more often increased market volatility, exposed vulnerable populations to price shocks, and undermined confidence and capacity in national economic sectors.

One need only look at Mexico's human rights crisis and growing economic dislocation 15 years into NAFTA to understand the perilous connection between trade agreements and human rights.

Beyond liberalization, the agreements usher in a new legal and policy framework that significantly limits policy options for stimulating economic development, and guarantees powerful new enforcement rights for foreign investors, without any corresponding binding obligations.

Given this experience, human rights, labour and development organizations urged governments to conduct an assessment of the trade agreement's likely impacts on human rights before finalizing the deal.

In this way, explicit measures could be taken to address how the deal could benefit and not harm vulnerable populations, whose lives and livelihoods are at the centre of the deadly scramble in Colombia for precious metals, land and other natural resources.

When the dust settled, the deal passed without this assessment, but the governments did commit to monitor the deal's human rights impacts following implementation.

How might the new treaty for human rights reporting be a force for good? If it helps bring greater accountability and evidence-based thinking to trade negotiating.

For Colombia, the reporting must track whether vulnerable populations affected by the deal see gains or losses that affect their rights (to food or livelihood, for example) following the agreement's implementation.

Will changes to the policy framework have any impact on the climate of human rights within which poor Colombians are organizing to gain a greater share of a rich economic pie?

The report can track how marginalized groups have benefitted or been harmed from growth and opportunities that can be reasonably linked to expanded Canadian trade and investment activities or to increased Colombian exports to Canada.

Methodologically, this is not a simple task. It will be important for the governments to establish a baseline against which they will report, based on the human rights obligations of the two states. They need to employ a methodology for assessing impacts that is evidenced-based and respects core human rights principles, including transparency and participation. And the annual reports have to feed back with some consequence, not be shelved in a library.



To date, there has been no public information available on how either government will be approaching their new treaty obligations. Disclosure of the methodology and reporting framework is imperative for credibility and confidence building in the new process.

Fortunately, help is available in the UN human rights system. The UN special rapporteur on the right to food has recently launched draft guidelines for states on human rights impact assessments for trade and investment agreements.

The treaty requiring Canada and Colombia to monitor the human rights effects of the trade agreement is a global precedent and will be closely watched. The first reports are due in May 2012. Given the vagueness of the treaty's provisions, there are concerns the reports may be mere public relations exercises.

The opportunity is there to ensure the reports can be a tool for greater accountability, highlighting that states have obligations not just to international trade rules, but to international human rights law.

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