

Trade and Investment-Induced Population Displacement in Latin America

October 12-14, 2011 - York University, Toronto, Canada

A workshop to systematize current knowledge on the connection between trade and investment and forced migration and to establish a common research agenda for the Latin American Network on Forced Migration



Workshop Report and Summary of Workshop Proceedings

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and the Centre for Refugee Studies (CRS), York University*

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Workshop Report

The relative productivity of small farmers is counterintuitive... The same goes for the idea that natural resource endowments pay off so little... [T]hese are both causally related to forced migration in ways that elude most people.

Albert Berry¹
Economist
University of Toronto

Introduction

In October 2011, The Centre for Research on Latin America and the Caribbean (CERLAC) and the Centre for Refugee Studies (CRS) at York University hosted a two-day workshop on trade and investment and forced migration in Latin America, the second in a series of joint Canada-Latin America research capacity building initiatives under the auspices of the Latin American Network on Forced Migration (LANFM) to address the impact of forced migration on regional development. The event, **Trade and Investment-Induced Migration in Latin America**, successfully brought together more than 30 academics, researchers, NGO practitioners and graduate students from Colombia and Canada to systematize and critically engage with current knowledge on the ways in which

trade and investment are connected to forcible migration in the region.

Millions of Latin Americans continue to be forced to flee from their own homes. Colombia, for instance, has the second largest number of internally displaced people in the world while recent research suggests that forced migration is a growing problem in Mexico, Central America and throughout the hemisphere. Some seek refuge within their own countries while others look for asylum across borders both within the region and beyond. Understanding and addressing the relevant drivers of forced migration flows is critical to developing new research and policy responses that will improve human rights implementation and human development. In this regard the workshop offered innovative perspectives on the problem.

A number of trade and investment factors have been linked to forced migration including conflict over resources in the context of “development” activities such as mining, monoculture farming and petroleum extraction. As well, food insecurity and long-term climate changes that are having negative impacts on the livelihoods of vulnerable communities across the region are seen as related to the phenomenon of forced migration.

Latin America is a region of strategic importance to Canada. As a member of the Organization of American States and in the context of a re-engagement with the region starting in 2007, Canada has recently added new trade and investment agreements with Peru, Colombia, Panama and Honduras to longer standing agreements with Mexico,

¹ From a personal email communication from Dr. Berry to Dr. Eduardo Canel, October 14, 2011.

Chile and Costa Rica. There is a need for new linkages and networking between Canada and Latin America through joint research agendas that not only build on Canada's and Latin America's capacity in the field of forced migration research but also contribute to strategies that reduce internal and cross border migration, supports the voluntary return or local integration of those displaced, promotes peace-building in the region and supports local economies based on fair and equitable trade relationships. Such partnerships can help Canada improve its engagement with development strategies overseas.

History of the LANFM Partnership

Established in 2010, the LANFM is the first ever network focused on forced migration in the hemisphere. It intends to mobilize and exchange knowledge that contributes to alliance building and to inform the development of both national and international policy frameworks and humanitarian practices relevant to refugees and forced migrants in Latin America and Canada. At the first meeting of the LANFM, held in Bogota, Colombia in November 2010, some thirty researchers mapped out the issues related to forced migration including the root causes, the impact of forced migration on Latin American states, and the contribution of forced migrants to the process of peace building and post-conflict reconstruction.

The relationship between trade and investment and forced migration is an area of mutual concern to Canada and Latin America. Among other factors explored in the inaugural meeting of the LANFM, researchers observed that international trading relationships and flows of foreign direct investment have had profound economic, social and ecological impacts on

the region and consequently may contribute to migratory flows, both as push and pull factors. They observed that some of the paths connecting trade and investment to forced migration are direct while others are more indirect and consequently more challenging to assess. Building on these established relationships, the second gathering of the LANFM in Toronto, Canada, was planned in order to: (1) expand our collective understanding of newly emerging or under-studied forms of forced migration; (2) address various policy dimensions including legal standards for businesses engaged in investment and trade that generate population displacements; and, (3) identify best policies for supporting those who are displaced.

Workshop Aims and Methodology

The aims of this second workshop were: (1) to bring together distinct groups of researchers in order to systematize current knowledge on the connection between trade and investment and forced migration; (2) to identify common research agendas for the LANFM; and, (3) to put in place capacity building plans to carry out this agenda. Researchers from Latin America and Canada, both academics and researchers from non-governmental organizations, including experts on both forced migration and investment and trade gathered for a full day of formal presentations. This was followed by a facilitated second day aimed at identifying research themes for future collaboration. Following the formal sessions of the workshop, a smaller group of scholars met with the directors of CERLAC and CRS for an additional day to explore future joint research initiatives between LANFM, the Refugee Research Network and Canadian scholars. This gathering has nourished the ground for ongoing alliance building rooted in this mobilization and exchange of

knowledge, which is expected to inform the development of policy frameworks and humanitarian practices affecting forced migrants in Latin America and Canada. A webpage for the workshop was developed and is available through the Refugee Research Network's website.²

Summary of Workshop Activities

An opening reception for the workshop was held on the evening of October 11 in the York Research Tower's eighth floor lounge. Participants from Colombia and Canada received a warm welcome from Eduardo Canel, Director of the Centre for Research on Latin America and the Caribbean and were afforded the opportunity to meet on a more informal basis to strengthen collegial relationships already supported by common intellectual and policy-related interests. Over the following two days, the formal workshop took place in Founders College Common Room, also at York University.

Susan McGrath, Director of the Centre for Refugee Studies began the workshop by underlining the significance of the moment of this gathering of researchers from Colombia and Canada, especially given the recent free trade agreement between the two countries. She stressed the importance of networking spaces like LANFM and the Refugee Research Network (RRN), and underlined the crosscutting issues that forced migration scholars throughout the world are facing at the present time. Roberto Vidal of Javeriana University in Bogota, Colombia, a founding member of LANFM, celebrated the hard work, the circulation of knowledge, the mutual respect and the friendships which are the product of collaborations to date and looked forward to

ongoing learnings over the coming days. Dr. Canel noted that though overt armed conflict in the region has largely subsided, the region continues to produce thousands of displaced people, a situation that obligates a rethinking of forced migration. He stressed that the process of filling knowledge gaps is certain to lead to quality policy-oriented research able to address the fundamental issues relevant to forced migration in the Americas.

The first day of the workshop featured four panels. The first session provided an overview of the workshop themes, seeking the synergies between forced migration research and studies examining a burgeoning trade and investment agenda promoted by Canada and other states. Speakers stressed the need to reconceptualize forced migration including its causes, knowledge gaps and official denial of its existence, especially in relation to investment projects. The session included an update on the activities of the LANFM and stressed the need to centre the political agency of migrants who face growing securitization. Speakers also queried the expansion of neoliberal economic policies and the resultant economic and environmental vulnerability of already marginalized populations. A consensus emerged that development policies based on unregulated trade and investment contribute to forced migration and other human rights violations in the region.

The second session looked at issues of trade liberalization, corporate penetration in the extractive sector and development policy based on the growth of this sector. The presentations examined the role of transnational corporations involved in mineral extraction in Latin America, particularly in Colombia, and highlighted the tension that sometimes exists between

² The webpage for this event is available at <http://www.refugeereseach.net/node/8781>

these economic activities and the collective rights of Afro-descendant, Indigenous and campesino communities. This session explored the often nefarious impacts on local communities of the emerging resource extraction patterns of accumulation leading to the dispossession and the reconfiguration of territories through forced displacement and widespread violations of human rights. Presenters highlighted civil society and scholarly efforts to address these issues despite significant capacity challenges. They also underlined the need to address the global governance babelian conundrum in which those engaged in conversations about human rights lack a common language with those focused on the management of international trade and investment.

Presenters in the third session explored the related spheres of agro-development, climate change and livelihood vulnerabilities, providing a sobering view of the challenges ahead in the hemisphere. Vulnerabilities due to climate change are expected to coincide with other challenges such that marginalized groups will often be unable to adapt and will be compelled to migrate in even greater numbers than at present. These future trends were mapped upon a present marked by high levels of inequality, thus emphasizing the need for concerted action. Participants also learned that small-scale farming is more productive than large-scale agribusiness. Latin America has long been characterized by extremely unequal distribution of agricultural land, a situation further exacerbated by the expansion of cash crops such as palm oil plantations. Recent international trade and investment treaties were shown to especially impact Indigenous, Afro-descendant and campesino communities.

The final session of the first day considered different approaches to seek economic

justice for those negatively impacted by the expansion of international trade and investment regimes given increased restrictions on their movement from Latin America to countries in the North. Human rights protection, state responsibility and international legal regimes were examined along with international legal structures that at best inconsistently address displacement induced by megaprojects and other forms of large-scale development. Presenters also considered the gulf between the unfolding neoliberalization of economic relationships through relaxation of state control and the call of civil society for accountability to international standards of human rights. Participants grappled with the meaning of durable solutions in this complex context, discussed tools for ongoing human rights assessment in light of expanded trade and investment, and raised concerns about the current involvement of corporations in the governance of these matters. Speakers underlined foolhardy policy directions of Canada and the United States that too often privilege unethical corporate activities of transnational corporations.

The second day of the workshop linked the presentations and discussion of the first day to a broader project meant to foster collaboration between Canada and Latin America around the issue of forced migration. Using popular education tools, the group engaged in an exploratory process to develop new frameworks and thinking about policy relevant research. The group was able to strengthen the foundation for future collaborations between researchers from Latin America and Canada and to clarify some of the structural and institutional elements that are needed for this collaborative framework for research to be successful.

Through an interactive collective process, three specific areas of focus were identified and small groups were established to further develop them. These specific focus areas were: **Law and Regulation; Vulnerability; and, Advocacy/Civil Society**. Each group clarified their issue, developed relevant research questions, and identified advocacy strategies. They also itemized the next steps for collective work and specified what is needed from the network to move forward.

A Common Research Agenda for the LANFM

Law and Regulation was identified as both part of the problem of forced migration as well as part of the solution. The way forward needs to include a further exploration of the application of existing norms as well as the development of new legal frameworks able to address issues of forced migration. Relevant themes included corporate accountability, tensions between human rights and investor rights, and the multiple scales and dimension through which advocacy needs to happen.

Possible research questions:

- ❖ *What express responsibilities do transnationals already have in law? What norms need to be created in order to address current realities?*
- ❖ *What can be done to address the problematic and often contradictory relationship between human rights and investor rights?*
- ❖ *Which actors and power structures need to be considered in creating new norms to protect human rights in the case of forced migration?*

Vulnerability was identified as a concept that provided an entry into the multitude of ways that people find themselves being displaced. The group recognized that

vulnerability to physical violence is central but that economic, social and environmental vulnerabilities also must be considered in order to understand what creates situations of precarity that lead to displacement or other forms of violence. The logic of neoliberalism was said to produce vulnerability in order to put a specific economic structure in place.

Possible research questions:

- ❖ *What vulnerabilities exist to (physical) violence?*
- ❖ *What vulnerabilities exist to factors that lead to forced migration?*
- ❖ *What vulnerabilities exist which cause displacement even when it may not be considered to be 'forced'?*

The area of **Advocacy and Civil Society** was also identified as an area of important research. People and communities need to be able to advocate for themselves and require the tools and support necessary to do so. Relevant to this theme is the capacity of the state to advocate for its own citizens in a neoliberal framework.

Possible research questions:

- ❖ *What constitutes an enabling environment for community/citizen advocacy? Dimensions of the question include: Political freedom; threats; advocacy; criminalization of dissent.*
- ❖ *How can citizen/community advocacy capacities be strengthened? What resources are needed?*
- ❖ *How can the understanding of forced displacement be shifted so that it is not seen only as an exceptional case in times of war but also as an integral part of the neoliberal development model?*

- ❖ *The need to follow up on Canadian companies, their behaviour and actions in Latin America in order to provide solid data for affected communities.*

Please find below a more complete **Summary of Workshop Proceedings** that provides greater detail regarding the content of the various scholarly presentations and the fruitful discussions that followed each panel. The full workshop program is also available in Appendix A.

Workshop Supporters

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- Founders College, York University
- Universidad Pontificia Javeriana

Workshop Participants

- Marshall Beck, Centre for Research on Latin America and the Caribbean, York University
- Albert Berry, University of Toronto, Canada
- Megan Bradley, Saint Paul University, Canada.
- Eduardo Canel, Centre for Research on Latin America and the Caribbean, York University, Canada
- Fr. Juan Cardenas Toro, Secretariado Nacional de Pastoral Social, Colombia
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- Luin Goldring, York University, Canada

- José Gómez-Rojas, Pontificia Universidad Javeriana, Colombia (unable to attend)
- Ricardo Grinspun, York University, Canada
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- Juliana María Vengoechea Barrios, Pontificia Universidad Javeriana, Colombia
- Roberto Vidal, Pontificia Universidad Javeriana, Colombia

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Summary of Workshop Proceedings

Day 1 - October 13, 2011

Opening Remarks

All the speakers highlighted that Universidad Javeriana, Universidad de los Andes, CERLAC and CRS have been intensively collaborating to develop their partnership. These institutions already joined efforts in the workshop held in Colombia in November 2010. The evaluation of that event was excellent and the Latin American Network on Forced Migration (LANFM) was generated. The Canadian members of the network remarked that the Colombian partners did a great job in hosting them.

Susan McGrath (Director of CRS), speaking in the name of the CRS, remarked that an important resource of the centre is the Refugee Research Network (RRN) website. This platform is being used to exchange knowledge and information and to bring people together from around the world who are working on these issues of common concern. The website is also a repository of material, publications and information, and includes links to other repositories. Ideally it will be a place where any person interested in the topic can consult. The CRS is very excited about the partnership being fostered through this workshop and offers the RRN website as a repository for the resources produced by this partnership. The RRN is a seven-year project with institutional partners in various locations throughout the world, including Africa, Asia and now the Americas. In November 2010 a workshop was held in Bogota that led to the

establishment of the Latin American Network on Forced Migration (LANFM), now linked to the RRN. Given that a Free Trade Agreement between Canada and Colombia was recently negotiated, this partnership is especially timely. It is important to shed light on the impact of this new agreement.

Roberto Vidal (involved with the coordination of LANFM), in the name of the Latin American members of the project, expressed gratitude for recent advances in the collective work being done in the area of forced migration. They think that the balance of the Latin American network recently created is very positive. The results have included learning, mutual respect and the circulation of knowledge. He stressed that networks are also constructions of friendship and hard work, an element that have been especially valuable for the Latin American partners of this new network. “We have learned, and are learning a great deal from this process,” concluded Vidal.

Eduardo Canel (Director of CERLAC) also noted that this second meeting takes place shortly after Canada and Colombia ratified an FTA and that therefore this new workshop happens at the right time. Canel remarked on the diversity of the group of colleagues that are working together on the project. The aim of these two days is to develop synergies and a collective work plan. One of the main tasks is to rethink forced migration taking into account new factors that reshape the situation of Latin America. A key question from the Bogotá workshop relates to the fact that although most civil wars are over in the region, thousands continue to be displaced. “We need to find answers to the following questions: What do we know about this topic? What are the gaps? What are the

implications for policy?” Canel also stressed that this International Workshop was bringing together a mix of people from research and nongovernmental organizations, thus opening up new possibilities of research collaboration and knowledge mobilization.

Session 1:

Overview of issues and concerns

Eduardo Canel (Chair) noted that this session was meant as an overview, the aim being to highlight synergies between two groups of research interests that do not normally interact: forced migration and foreign investment/trade.

“Violence and Forced Migration in Latin America: The Causes of Forced Displacement from a Migration Systems Perspective” - Alan Simmons and William Payne, York University, Canada

Abstract: Large parts of Latin America are deeply troubled by large-scale forced migration arising from political conflict, drug-cartel related violence, and armed private disputes over land, water and other resources. In this paper, we seek to review what is known about the magnitude, causes, and policy responses to contemporary patterns of violence and forced migration in this region. Our review adopts a migration systems perspective specific to Latin America in order to advance a critical framework for future research and policy development. This approach draws attention to neo liberal economic development strategies and export-oriented development as major new forces, operating in interaction with previously existing high levels of social inequality, as the sources of high levels of current violence and displacement. The migration systems

approach also clarifies why state officials in the region tend to ignore evidence of displacement and to dispute the role of violence in current migration. The paper concludes with a discussion of research priorities to create greater official and public awareness of forced migration and to generate new understandings and solutions.

A broad spectrum of factors including violence and human rights violations are said to cause migration, a term which itself needs to be further unpacked. “Migration systems analysis” is used in this paper as an intellectual stance rather than a specific model, and is applied to explore the present reality of forced migration in the region. The presentation covered four main issues: the challenges for the field of forced migration in Latin America; the official discourse (what governments say, i.e. reports, declarations, etc. and the contrast of this official discourse with what states actually do); research models and hypotheses; and some promising lines of inquiry.

Major challenges to the field include official denial of the problem, the existence of contested data and the challenges of sorting through possible causation explanations given that research frameworks are underdeveloped and policy agendas are fragmented. This widespread official denial, a theme treated elsewhere by Roberto Vidal, is at the core of the phenomenon and has huge effects. Official denial of forced migration within the region of Latin America is really key, and so there is a need to discuss the ideologies behind this problem.

Relevant data and analysis are also contested. For international institutions using neoliberal frameworks, the cause of migration is simplified to the “natural” dynamics of supply and demand in job markets, a particularly weak hypothesis. Research and conceptual frameworks

currently available to understand forced migration are underdeveloped. The focus is on responses, programs and legal remedies, not on the structural causes. One needs to think systemically to understand this issue, yet unfortunately little research on forced migration uses such a systematic political-economic framework. This contributes to the problem of policy fragmentation. Public officials in fact do not want to bring attention to this issue.

The weak model flows from the fact that it is difficult to develop this research area in a context of official denial. Earlier research considered the role of the colonial past and the Cold War in provoking forced migration, and likewise today it is important that research frameworks turn to neoliberalism as the context in which migration now happens. Issues of human rights and displacement are placed low on the political agenda despite the rhetorical importance of rights language to neoliberalism and their relevance to present migratory processes. We must begin with issues of ideology and power: Official discourse from the region, including the progression of major official agreements on issues related to forced migration, must be contrasted with the difficulty of finding official data concerning how widespread forced migration actually is.

A key question is: “What in fact constitutes forced migration?” The authors spoke of wrestling with the limits of the term itself before considering the important discussion regarding its “determinants”. What constitutes migration and when should it be counted as forced? And what about those negatively impacted by the same structures and who are left out of these counts, e.g. people who are forced to stay or family members left behind in the complex calculus of household decision-making? Who counts

as victims of these processes? The complexities of causation in relation to forced migration must also be considered. The basic causes are included in definitions of what constitutes a refugee or displaced person (for instance, persecution). However, other levels of causation ignored by official analysis need to be considered such as structural violence, local and international circulations of labour and competition for space. For example, what happens to people when their homes and communities are located in the same places as natural resources which have caught the attention of transnational companies or are considered strategic to drug cartels?

This paper also introduces the notion of the “ethical gaze.” Based on an understanding of the present in terms of the historical past and the hoped-for future, the ethical gaze sometimes leads to action. Starting with the colonial period, the paper considers examples of the ethical gaze such as the charity of the church and the international solidarity practiced during the Cold War. Given the logic of an international system where trade excludes environment and human rights, it may be that there is an emergent iteration of the ethical gaze relevant to the current context which can point to an imagined future where human rights issues are resolved, thereby addressing the issue of forced migration through a renewed commitment to human rights, democracy and political action. This introduction to the much longer paper distributed among participants is meant to provide a few pieces to think about. The paper concludes with some suggested research priorities.

“Launching of a new Latin American Network on Forced Migration: Summary Report” - Roberto Vidal, Pontificia Universidad Javeriana, Colombia

This presentation was a summary of the first meeting that the Latin American Network on Forced Migration (LANFM) held in Bogotá in November 2010. It shares the main conceptual premises referenced by Alan Simmons and William’s intervention. The aim of the project is the development of a research network. The tendency of states to ignore the problem of forced migration further emphasizes the importance of the Latin American network.

During its first year, LANFM sought to engage new partners leading to a fruitful dialogue between actors from Canada and Bogotá. There is a need to integrate other partners from the region. The Bogotá event brought together about 30 scholars primarily from Latin American and Canada. The starting point of the workshop was recognition of forced migration as an important reality of our continent from the colonial period until the present day. It is caused by diverse historical factors, most recently climate change and economic integration. The conceptual framework of forced migration however, has been reduced to the legal sphere, focusing on refugees and asylum seekers under United Nations regulations. At the present time, there is an emphasis on human trafficking. What is notable though is the ongoing contrast between the complex and broad social fact of forced migration compared to the narrowness of the concept, leading to the under-recognition of forced migration in the region. The rich production of research on forced migration using alternative views does not circulate well in international forums.

The first issue of discussion at the Bogotá meeting was the diverse forms of forced migration. There is a conceptual crisis relating to the topic, such that it is not easy to isolate different types of migration (in particular “forced” and “economic” migration). Only a fraction of those forced to move within their own countries are officially recognized as forced migrants. The emphasis on “protection” ignores the dimensions of recognition and political agency of migrants. Our own emphasis is on the redistribution of goods and rights and on participation. Recognition of regional migration flows confirms the growing relevance of regional arrangements and processes of integration such as Mercosur.

The notion of “mixed flows of migrants” (forced and economic migration) was widely discussed during the Bogota meeting. Questions were raised about whether the notion of the “mixed” nature of these flows may be contributing to the obscurity of new forms of forced migration associated with the food crisis and agro-fuel projects. Another main topic was the issue of securitization: there is a tendency towards associating international systems of migration with the security priorities of states. Securitization generates the impossibility of human rights governance by creating an environment of hostility towards migrants at the global level. Securitization of migrants is also reinforced by the growing presence of drug traffickers within the region who take advantage of the migrant streams to transport drugs, forcing migrants to participate, thus reinscribing migrants with the taint of a security risk.

A gendered approach to migration has opened up new opportunities through its recognition of women as victims of forced migration, though the analysis does not go far enough and sometimes reinforces traditional roles for women.

Some conclusions of our meeting in Bogotá: there is a need for regional forums about forced migration; there is not enough regional systematization of knowledge; the fields of forced migration and economic migration need to be integrated, studied and documented; and, the approach should be open and interdisciplinary. The process of economic integration is not associated with a better situation for migrants. In fact, economic integration has led to further legal restriction of mobility in the region due to securitization. Thus, there is a growing recognition of the needs and rights of migrants. Challenges for the network include the creation of these forums to allow for discussion as well as the questioning of policies of states, NGOs and international organizations. The meeting participants agreed that an ethical approach that goes beyond the role of the state and the market is needed in order to strengthen the collective political impact.

“Gains from trade? Exploring the impacts of trade and investment on vulnerability and displacement” - Ricardo Grinspun, York University, Canada

Abstract: Mainstream economics expounds the benefits of trade and investment. However, trade and foreign direct investment have profound economic, social and ecological impacts, and consequently, help feed migratory flows both as push and pull factors. In this paper I survey push factors that may be detrimental to the well-being of vulnerable local communities or regional populations, sometimes leading to their forced displacement. This can happen when commerce, such as arms or drug trade, fuels violence and conflict, factors commonly associated with displacement. There can also be loss of livelihoods due to economic factors, for example when trade

policies lead to restructuring of the rural economy and peasant displacement. Or livelihoods can be threatened due to ecological factors, such as when investment activities endanger water sources, or trade policies aggravate climate change. Finally, trade and investment policies may reduce the policy space available for governments to address the needs of vulnerable populations.

This presentation explores how trade flows and foreign investment impact negatively on vulnerable and marginalized people. Thus, it does not directly look at the question of forced migration, but rather at the background causation of migration. Of course, trade is not the only cause but, for analytical purposes, I try to isolate the connection between trade and investment on the one hand and migration on the other. The paper identifies four primary and interconnected paths: Trade and investment can 1) aggravate conflict, 2) bring about economic losses, 3) accelerate loss of livelihoods by aggravating ecological conditions, and 4) impact on the policy space, reducing the range of policy strategies to assist vulnerable populations. Although a convenient taxonomy, one should remember that these four sets of factors are often intertwined in any concrete reality. I mention them at the outset since I will not have time to discuss them in sequence or in detail.

But what do I mean by “trade and investment”? The approach here includes the legal regimes and formal regulatory frameworks, both national and international, such as national investment codes or international trade agreements. But it also includes the informal regulatory frameworks, patterns of decision-making driven by existing institutional settings, skewed power relations (including the effects of massive corporate power), and

ideology. We are in the realm of political economy, not neoclassical economics. It is important to note that the focus here is on the logic of the economic system rather on the resistance against it.

Let me refer first to the question of violence and conflict, mentioning three aspects of it: One crucial aspect of trade that feeds conflict is the arms trade. This trade, which particularly involves small arms, is concentrated in the hands of a few nations. While governments claim they only sell to other nations, arms make their way into diverse and unaccountable hands. The arms trade has a special status in the international regulation of trade. The WTO and many trade agreements contain what is referred to as the ‘national security exception.’ For example, Article XXI of GATT says that, “Nothing in this Agreement shall be construed... to require any contracting party [meaning, country] to furnish any information the disclosure of which it considers contrary to its essential security interests; or... to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests... relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment...” This language creates an open-ended exception since each government can decide what its “essential security interests” are. Thus governments can engage classified solicitation processes with security-cleared suppliers entering into non-competitive arrangements – effectively bringing it underground. Such clauses have been in trade agreements for decades but have new meaning in a post 9/11 context of securitization.

Another form of deregulated trade that plays a role in conflict and displacement is the

narcotics trade. As an illegal trade there are no formal regulations for narcotics trade but there is an informal regulatory system shaped by US-led policy approaches of prohibition. Prohibition is basically an extreme form of deregulation leading to securitization, conflict and the promotion of the arms trade.

A third aspect that links trade and investment with localized conflict is foreign direct investment, particularly in extractives. The sites of resource extraction often become focal points for conflict. Primary consideration is generally given to investor rights. Agribusiness is another area relevant to foreign direct investment. Trade agreements have also facilitated the penetration of agribusiness, and are thus a contributing factor that leads to the displacement of people. Thus, the WTO article on subsidization has adverse impacts on developing countries.

The dominant ways of thinking about these issues are problematic. The discussion so far has mentioned foreign direct investment. However, little attention has been given to a different type of investment that is also relevant: portfolio investment. It is increasingly difficult to ignore the role of speculative capital and its impact on marginalized populations, especially on smallholder farming.

Consider the growing phenomenon of “farmland grab.” These are large scale agricultural land acquisitions serving as the basis for a new financial asset class, so called “ag investment”, that allows large institutional investors, such as pension funds, to invest. These new assets are seen as particularly lucrative. These new assets, promising an average annual yield of 10-12%, contribute to the expansion of the same financial innovation phenomenon that contributed to the 2008 crisis.

On a larger scale we contemplate a perverse scenario of ecological crisis. A race for control of remaining resources and their increasing commodification is predicted. Thanks to financialization, ownership of these resources (focused on the local previously), rather than being localized, will be distant and dispersed. What can be worse than an absentee landlord? Trade and investment in this framework are harmful to rural and peasant populations and have detrimental impacts on the environment. Climate change is starting to become devastating, and the current devastation is just the sign of things to come.

The conclusion is that the current trade and investment paradigm, with its systematic effort to produce privatized gains and socialized losses, is unsustainable and is likely to produce more forced displacement.

“Prevention of forced migration and investor security in the global economic framework: Colombia as the Latin American example?” - Fabio Lozano Velasquez, Organization for Human Rights and Displacement (CODHES), Colombia.

Abstract: This paper will address issues around the prevention of forced migration and multinational investments in extraction and exploitation based on the Colombian case. As a result of over 20 years of research on internal displacement, there is general consensus at CODHES that it is necessary to pay attention to the features, factors and processes that produce forced migration in Latin America within the global economic and commercial context, and in particular, recognizing that the establishment of a neoliberal hegemony based in practices of “modern development” can be argued as the root cause of forced migration in the region.

The presentation starts with two anecdotes: First, the story of a Canadian economist, Lauchlin Currie, who almost sixty years ago as leader of a World Bank mission in Colombia advised the promotion of massive migration from the fields to the cities. Subsequently, the Chicoral Pact and its very effective attack on the rural population made Mr. Currie’s dream come true. A second story: 15 years ago I was in France. As a graduate student I wanted to invest my savings. The investments with the highest returns were not in European but in Third World locations. With these two pieces of information, I start this presentation. Development within the dominant framework produces benefit to capitalists without consideration of social impacts. We need to develop a political plan based on ethical considerations to oppose this model. Concrete actors advocating a particular model of development have created the reality of forced displacement that we are facing. Therefore, we can act to prevent the phenomenon of displacement.

To do this, we need to understand the dynamics and the causal factors behind displacement. First, we need to accept that forced displacement and other violations of rights related to movement are massively occurring in Colombia and other countries in the region. Colombia in particular is the scene of systematic violation of human rights. This however is not the product of an exceptional moment of crisis but rather it is connected to the manner in which the social reality of the country is structured. We need to seek to change the underlying causes of displacement and not only address the superficial manifestations of the problem. This requires a policy response that focuses on root causes.

Colombia faces forms of imposition of territorial dominion that violate other rights. Forced migration is deliberate. It is part of a broader and longer-term strategy to

reorganize territories (including their peoples and resources) by removing populations in resource-rich areas to facilitate the imposition of a resource-extractive model of development. In the context of this economic model, forced displacement is beneficial to some economic sectors, for example through the provision of cheap labour. The phenomenon is not being adequately documented. Let us keep in mind the example of Mexico and the impact of narco-trafficking that has led to ghost towns. Or Guatemala and Peru where there is massive displacement without documentation of the numbers of people involved and no analysis of the causes.

Second argument: we are not facing a problem of forced displacement that is the product of a specific conjuncture. The problem of displacement being discussed here is the product of a systematic and general exercise of domination that has cultural and social implications. The United Nations system has conceptualized forced displacement by differentiating it from the notion of “refugee”, as the displacement of people from one place to another without crossing the frontiers of a country. This concept does not allow for the grasping of the geopolitical complexity at stake. We need a more complete understanding of the process. In some cases, the human rights violation is permanent. The free movement of capital contrasts with new forms of slavery apparent within labour such as what is happening in the service sector.

A third element in the analysis of displacement relevant to Colombia is its model for the elimination of the political opposition. There is also an imposition of a cultural hegemony of consumerism, chauvinism and misogynist views coupled with the idealization of the American form of life.

The state policy approach to displacement is based on the war on drugs and the conflict with guerrillas. This approach is focused on the notion of “victims” and negates the fact that armed conflict is not the only cause of forced migration. Given that displacement has been apparent for the past 500 years, the standard explanations and interventions are inadequate. It is important to recognize the militarization of society (Colombia’s army is bigger than Brazil’s) that is clearly connected to a development plan that prioritizes investor confidence over human rights.

What we need is a re-foundation of socio-political relations in Colombia. The paper proposes seven strategies in that regard.

Session 1: Questions and Answers

To Alan and William: Asked to elaborate on the concept of the “ethical gaze”

This concept has not been well developed yet. It is rather an issue for discussion. We agree with the idea of having a complex framework to work out determinants, but at the same time it is useful to create a model that simplifies the complexity and leads to improved research and policy changes. On the relationship between ethical gaze and political action, we should say that sometimes the ethical gaze does not lead to political action. The ethical gaze may simply lead to rhetoric.

To Roberto: Regarding the Andean trade agreement and the inclusion of free labour force provisions, is this a concrete goal being pursued within the trade agreement? Generally, trade agreements try to avoid anything beyond, for instance, labour supply. The pro-business agenda underlies everything. Therefore, the people that can move within NAFTA are limited, for

instance, skilled labour which is relevant to corporate expansion.

There is a conflict between the interpretation (from the North) that insists on the control of migration and on the separation between trade and migration, and civil society's more progressive perspective. At present, circular migration is stopped; undocumented immigrants cannot leave the U.S. There is a sharp division between the point of view of states and civil society. We need to separate these visions. There are contentions that need to be faced. While states need to understand these processes as problems of security and national configuration, civil society needs to interpret the problem as one of rights. The other side of the securitization is the proposal to open the borders.

The utility of new concepts relating to forced migration, such as the concept of mixed flows, should be questioned. The criteria currently distinguish types of migration based on different "causes". We need to shift to another paradigm, to ask, what are the needs of the people at the present time? There is not a big difference between the causes; people have the same needs. The Catholic Church has a lengthy experience working with these criteria; they talk about "mobility" or migrants in general.

To Alan and William: Where does the redefinition of forced migration lead in terms of Canadian humanitarian policy, given the current context of narrowing of these kinds of policies? Please relate this to the discussion on mixed flows.

In terms of policy, it leads to disappointment with the government. The Harper government has a tendency to play down human rights issues. There has been pressure for it to pay more attention. There has been some response from government, but it may simply be rhetoric. For example,

the Colombia-Canada Free Trade Agreement makes provisions for human rights monitoring, but who is going to do the monitoring remains unclear. The Canada-Honduras Free Trade Agreement was recently signed. Where is the political pressure to get a human rights provision within this free trade agreement? These are difficult times. The researcher is "on the stage." There are many questions related to being a researcher, including impacts on the production of knowledge. We can create new discourses. What does it mean to choose not to make a separation between someone displaced by armed conflict from someone displaced by an economic project? The similarities are greater than the differences. We need to insist on that from academia.

To Ricardo: In terms of modification of the global investment regime, given that there is no central authority, how can this be done?

Is it possible to have a more friendly trade regime? The answer is yes. It is clearly not a technical problem; it is a political problem. It is not difficult to envision some transformations. Trade regimes can be made more amenable, to move beyond investors rights (the regulatory systems approach) to the recognition of issues such as human rights, labour rights, food security, etc. This can be done in many ways, from modest to radical. Many modest proposals have been made, for example trying to limit the scope of what foreign investors can sue for. In the current situation investors can hijack policy processes. There were calls for a human rights assessment on new trade agreements ratified for Canada. However, it was not achieved and what did go through was only for PR. In terms of issues such as labour rights, mobility and public health, mechanisms are weak or almost even at the level of PR. The national security exception

is powerful. In all standby agreements of the IMF and virtually all trade agreements, protections for public health and education, rural extension programs, etc. are weak. These are all things that could easily be changed. The explanation why these changes are not being made is simple: power.

To Fabio: Is there a tension between the depth of the analysis of forced migration and the production of doable concrete solutions?

Many things can be done. Our proposals are premised on the idea of human rights, respect of the constitution, etc. We believe that within this framework (liberal democracy), we can advance a great deal. We need more democratic policies and politics, with real participation of diverse social sectors, including international investors of course. The process needs to be more democratic. The other important element is that in this political framework we need to count on tools that can allow us to act in a preventative way. In theory, the new (Colombian) law regarding land restitution allows people to get their land back. However, some restituted lands are located in areas that are still dominated by the people who displaced them in the first place, so people end up selling their land for a low price. Titles need to be made official and legal in such a way that society is able to actually recuperate territory on an ongoing basis. We could use any of several mechanisms such as peasant reserve areas, already existent forms of organization (indigenous, afro-descendants, etc.) as well as other mechanisms that have been developed. The point is that if we simply apply our Constitution, we would advance a great deal! We need to question the discourse of “territorial control”, its consequences and the dynamics that it

involves. It is important to unpack the policy implications of the mainstream approach to forced migration. In the end, the solutions should be based in the strengthening of civil society organizations.

To Fabio: Comment on the tension between democratization and governance at the local level. In the case of Mexico, is there a “colombianization” where greater control is going to narco actors?

Territorial control is the main issue: Who controls the territory? The dominant discourse in Mexico places the blame on narco-traffickers/mafia. This is the argument that in Colombia led to the displacement of people from their land (linked to militarization). Again, the solution has to do with the strengthening of social organizations i.e. *campesinos*, indigenous, victims, etc.

Session 2:

Trade liberalization and corporate penetration in the extractive sector

“Space production, foreign investment and displacement in Colombia: Some effects of the economies of mining and energy generation - The case of Canadian Investment” - Jairo Estrada, Instituto Latinoamericano para una Sociedad y un Derecho Alternativos and Universidad Nacional de Colombia, Colombia

Abstract: This paper analyses the principal trends in the production of a new spatiality in Colombia over the last decade, focusing especially on the role of the economies of mining and energy generation. In this period, foreign investment grew spectacularly thanks to the financial speculation, the growing demand in the world market and the exaggerated incentives offered to investors by the local regime. This investment is an essential factor behind the reconfiguration of territory taking place in Colombia, and behind the emergence of new political, economic and socio-environmental conflicts. The displacement process is considered as a component of this reconfiguration. The paper aims to reveal the relationship among the social production of space, foreign investment and displacement in Colombia. The paper specifically examines the case of Canadian investment.

This presentation examines the creation of a new spatiality as well as a new geography of accumulation in Colombia, and the human rights situation linked to them. This process is based on extractive economies articulated with already existent economic activities. The theoretical framework employed is political economy and the work of some renowned geographers. Using these two lenses, we see that the reconfiguration of

territory, production and social relations are interlinked. In order to understand the production of this new spatiality we need to take into account four basic elements: the process of systematic neoliberalization, increasing militarization, violent acquisition of territory and financialization.

In Colombia, an economic and legal order has been constructed whose priority is to protect investment “rights”. In terms of the problem of increased militarization, the idea of a military solution to the long-term conflict that the country is experiencing has been imposed. From this perspective, the best way to settle differences and to find solutions is through the extermination of the other. This logic is extended beyond the guerrilla problem. There is what can be called a social fascism. This is of course connected to what I call the violent acquisition of territory, or accumulation by dispossession (I am using David Harvey’s notion). A narco-paramilitary territoriality is imposed. The institutionalization of this power is linked to these violent forms of social control. The return to an extractive economy is entrenched in this neoliberal project. The new economic geography has had the effect of a dramatic increase in the prices of products of the land.

In terms of Canadian investment in Colombia, it is difficult to track the source of investment. Canadian companies operate from various countries. Canadian companies have been at the centre of the political debate in Colombia. A series of conflicts derive from exploitative resource economies: labour conflicts (labour conditions are similar to those of the nineteenth century), environmental and resource-related conflicts, and social conflicts (including demands for housing, education, etc.). There have been attempts to criminalize and coopt both communities and protest. Whereas the geography of accumulation based on extractive economies

is still at work, we should expect a substantial increase in social protest in Colombia, along with the popular resistance to investment projects and (very likely) an increase of current levels of violence which may in turn lead to more displacement.

“Internal Forced Displacement: The price that must be paid for development? A case study on extractive industries” - Beatriz Sánchez Mojica, Rene Urueña and Yadira Castillo, Universidad de Los Andes, Colombia

Abstract: After Sudan, Colombia is the country with the highest number of internally displaced persons in the world. Approximately one-tenth of its 45.5 million people have been violently expelled from their places of residence and condemned to roam the country in search of a new home. In response, the Colombian state has developed a complex set of policies to assist and protect the displaced; however, these policies have been based partly on the premise that the armed conflict is the cause of this involuntary exodus. As a result, only those who have been displaced by parties of the armed conflict are recognized as displaced, and only their needs and rights have been attended to. This premise must be put to debate. Displacement in Colombia is not the consequence solely of armed conflict. It is also the product of an economic model in which extractive industry and agro-industry are seen as motors of development, leading to the expulsion of rural smallholders to incorporate their land into the national economic plan. This paper will engage these issues. Through a case study focusing on the displacement caused by a mining project, the paper will problematize the state's response. It will explore: the connections between forced displacement and the international commitments made by the state vis-a-vis

trade liberalization and the protection of foreign investment; the responsibility of companies that pursue mining projects; and the ways in which state policy needs to be re-designed.

There is a connection between internal displacement and international commitments regarding regularization. International actors such as international financial institutions recognize displacement as a concern and attempt to address this issue. And yet, Internally Displaced Persons (IDPs) linked to economic development are not recognized within official discourse. Forced displacement has never been seen as a consequence of “development projects”. Why do economic plans ignore forced exodus? IDP policy in Colombia does not take into account such migration flows. This is attributed to the conceptualization of an IDP based on the definition provided by Law 387/1997 in which internal armed conflict is identified as the only cause of displacement.

There are two ways of framing the problem of forced displacement and development: one, the managerial perspective, which emphasizes the need to “manage” displacement, for instance, through liberal or court-based intervention or law; and two, the radical critique of development. There are various overlapping dynamics and issues at play: politics of development, politics of identity, politics of bureaucracy and subsidies; politics of law and human rights; and politics of global governance.

In terms of the politics of development, we should say that “development” is supposed to bring about wealth, which should reduce armed conflict, yet in Colombia powerful corporations “capture” the government. In terms of the politics of identity, the identity of the displaced population has been a significant challenge. As an IDP you are

entitled to claim your rights through positioning yourself as a victim. What are the implications of this? IDPs have gained access to money (subsidies), which provides an incentive for the reproduction of the status quo (politics of bureaucracy). By a politics of law and human rights we mean that the law is part of the problem and part of the solution at the same time. As you try to use legal language, you tend to oversimplify issues. We should also note that there is conflict between two languages of global governance: global IDP regulation (i.e. UNHCR) and global governance of investment. These two languages collide with each other. Each of these languages has its own structural bias.

“Social and environmental impacts of mining in Colombia: Ecosystem transformations and migratory dynamics in Afro-Colombian communal lands” - Pablo Ramos, Pontificia Universidad Javeriana, Colombia

Abstract: Although ecosystem transformation has been a common and traditional characteristic of mining activities in the communal lands of the Colombian Pacific region, in fact the economic proposals, the asymmetries of access, and the increasing number of interested actors attracted by the promise of a better future for the majority have put at risk some fundamental concerns, such as the right to land and the environmental health of local communities. This paper will analyze the impact of mining on AfroColombian lands with attention to: 1) the continuing inadequacy of legal frameworks; 2) the profound cultural changes that endanger territorially-rooted identity-related practices; 3) the increase in the numbers and mutation of actors interested in mining; and 4) the migratory dynamics that are

reconfiguring shared-use territories and ecosystems.

This presentation introduces the Observatorio de Territorios Étnicos (OTE) that assists several Afro-Colombian communities located in both Pacific and Caribbean coastal regions. We do not only do research but also serve as a space where people can gain support including information, legal assistance, geographical data, community strengthening for territorial organization, management of biodiversity, education, etc. We also support these communities as they develop their own reflections about the role of their own community leaders called “ethnic authorities.” This is particularly important given that those who resist these investment projects are sometimes cast as enemies of the people.

The idea that economic investment is necessary for development is becoming standard thinking of the general public in Colombia, something that generates serious social problems and restrictions. Mining in particular is seen as a motor of development. The Pacific Coast area is characterized by a general lack of acknowledgment of the collective territories that exist there, by the presence of armed actors, by organizational instability, and by the arrival of new actors. A new framing of Colombia as a mining country is seen in the establishment of Extraction Zones with significant yet dispersed environmental effects. This has an impact on local populations, something that leads to migration.

Not only do these industrial pressures affect indigenous and afro-Colombian collective zones. They also affect communitarian zones and reserves such as parks. New legislation seeks to alter the rights of people through changes in the mining code while many groups who have already solicited

their collective titles have yet to receive them. Displacement of communities is seen as an effective strategy, similar to patterns previously seen in relation to oil extraction. This leads to significant effects on the environment. Those forced to move are not welcomed in the urban environments where they go. It needs to be recognized at the national level that large-scale mining is not sustainable and that there is a need for improvements to the internal regulations. The right to say “no” to mining is currently being debated, yet there is not currently sufficient capacity to monitor let alone regulate the impact of mining projects across the country. Perhaps there is a role for educational institutions or communities in this ongoing monitoring activity.

“Challenges for the Church given the impact of extractive industries in Colombia” - Fr. Juan Cardenas Toro, Secretariado Nacional de Pastoral Social,” Colombia, Father Juan Carlos Cárdenas Toro

Abstract: Since 2003, extractive industries have demonstrated a significant momentum within the overall national economy of Colombia. This has been reflected in the substantial growth in both mining and hydrocarbons at rates higher than other sectors such as agriculture or even industrial production. An important indicator is the level at which extractives contribute to total exports from Colombia; mining contributes at least 20% of exports. This scenario presents serious challenges, not only economic but also social, cultural and institutional ones. The growth of this sector of production, given the complex context of our country including the internal armed conflict, varying levels of state presence across its territory, a development model which excludes a significant percentage of the population, as well as tensions in relation to property and the use

of land and territory, has attracted the attention of civil society organizations in relation to the impacts of this economic boom on the whole of society.

Colombia’s present situation raises expectations that increased foreign investment in mining regions could increase the possibility of regional development if the extraction of mineral resources is undertaken through a development policy which includes respect for territory, care for the environment and a model of just and dignified labour relations. The government has proposed some regulations and public policies aimed at regulating this growth. However, some issues remain unclear, including environmental controls, the inclusion of traditional communities who inhabit territories that have been licensed for this exploitation, as well as the connection of these industries to a long-term sustainable social and economic development model.

Such tensions presently exist in many areas of the country. The Catholic Church has accompanied and provided encouragement to many of the communities immersed in this complex situation. In Colombia’s Pacific region, the National Social Ministry Team has accompanied the community of Alto Atrato, Consejo Comunitario Mayor de Alto Atrato (COCOMOPOCA) and has proposed community based measures by which the impact of these industries would respect the rights of these communities and their residents. In another region of the country, in the municipality of Marmato in the coffee growing region, the parish led a process of reflection and alert in face of the impact of the open-pit mining of gold on the life of the municipality. At the present time there is a conflict in this locality between the interests of the mining company, civil society and the national government with regards to the destiny of the population.

This paper presents the principal aspects of what the present increase in mining activity in Colombia implies. The impacts have been identified in many local communities and the experiences I am describing here have been derived from accompanying communities affected by this industry. This is one of the principal challenges identified through the work of the Church's Social Ministry in Colombia. I am speaking in the name of the Colombian Catholic Church and will focus on two cases.

In 1991, Colombia recognized its own diversity. Law 70 established a mechanism of protection for Black communities as an ethnic group in Colombia. This meant the possibility of creating community associations. It is in this context of the creation of different community associations that COCOMOPOCA was born. It includes 46 communities of Afro-descendants and includes 3,500 families. Their ancestral practices have permitted the conservation of the humid forest characteristic of that region of Colombia. In recent years, armed groups have had a permanent presence in the area.

In this context, the government gave a mining concession to an Australian company without any previous consultation, a required part of the process. No consent was given on the part of the community, and this situation has generated conflict within the region. COCOMOPOCA has denounced this situation. As part of its social doctrine, the Catholic Church has supported these communities both in terms of their integrated education as individuals but also in terms of their efforts to assert the fundamental rights that they have. We have supported them in the denunciation and the visibilization of this situation that has resulted in the displacement of about 40% of the population from the territory. On September 23, 2011, COCOMAPOCA received the collective title of 73,000 hectares of the land. However, of that

amount 55,000 are currently covered by mining concessions.

I will now talk about the Municipality of Marmato, situated within the coffee region of Colombia and founded over 400 years ago. It is very rich with natural resources and indigenous peoples lived in that region since prior to the arrival of the Spaniards. Since 2006, Medoro Resources has owned the rights to several hectares within the mountains and plan to develop a gold mine. This implies the relocation of the municipality, since it is located on the mountain from which the gold is to be extracted using open pit techniques. Again, this cannot be done without consultation of the communities that live there. With leadership provided by the parish priest Fr. Jose Reinel Restrepo, a civic committee was organized including small-scale miners from the community. The committee argued that given the presence of Afro-descendants and Indigenous people, the community cannot be moved without a prior consultation. However, on September 1, 2011 Father Restrepo was murdered in what remain unclear circumstances. A short time before his death, Fr. Restrepo had come to Bogotá in order to deliver a document concerning the ongoing conflict and had met with Fr. Cardenas and others in Social Ministry.

The Church recognizes the importance of looking for an alternative, comprehensive and just notion of "development." This is evidenced in the statements of the Church. A question that concerns all of us in this context is whether it is possible to have an extractive industry that is environmentally friendly.

Session 2: Questions and answers

To Jairo: Could you elaborate on the concept of financialization and its implications?

The dominant idea is that Colombia is going through a process of “primarization” of its economy. Natural resources are becoming a key motor of development. The cause of this tendency is, the narrative goes, the demand for commodities that today is very strong in the global market. This is connected to the growth of China, India and other new big players. But this is only part of the story. This so-called primarization of the economy is embedded in speculative dynamics. These investments are mediated by financial transactions. Of particular importance are the so-called futures markets. The point here is that in fact the value of the commodities is given by speculative activity in the global market. The price of food, for instance, is not based on current demand, but on speculation. Let us take the Colombian example. The mere expectation of future opportunities for extractive activities in an area changes the value of the land. Titling affects the current price on the market and investor profits. Legalizing titles is seen as an opportunity to financialize the earth itself. Speculative capital requires some real economic activities.

To Beatriz and Rene: What are the implications of your conceptual framework? How do you bring into the debate the politics of identity?

This issue is related to the concept of the “ethical gaze”. Being “poor” does not give people a sense of citizenship. Within Canada, the term refugee has negative connotations, specifically the notion of coming from a failed state, as well as emphasis on false claims, which has become

a dominant part of public discourse. By being defined as an IDP, a person is able to tap into a global source of legitimacy. This provides an opportunity to access based on the global discourse. An IDP is able to have more opportunities, for instance, is seen as a victim rather than as someone who is perceived as lazy, just another person among “the poor”. Being defined as an IDP gives you a voice, an identity. It also brings global discourses into domestic issues. This identity opens access to various benefits. The construction of the displaced has implied a distinction between the IDP and “the poor”. We wonder to what extent an expansion of the scope of this concept is possible, and whether it is productive or not to problematize the “distance” between different types of violence (military, economic). To sum up, this notion of IDP as it presently stands does provide people with a location within the global discourse and possibly with a sense of agency.

To Beatriz and Rene: Regarding the spectrum between managerial and critical approaches, is there a framework that takes into account both the practical and the theoretical aspects of the issue?

It is hard to think outside this continuum (managerialism-radical critique of “development”). Most activists need to be pragmatic and place themselves within the spectrum. It is difficult to find literature of people thinking outside of that spectrum. We need to understand the problem as one of a conflict of different languages: transnational capital vs. protection of individuals. Structural biases frame the answers to this question, for instance, understanding this problem within the global context. Regarding the notion of ethics, what kind of role do global ethics play in relation to this problem?

To Father Juan Carlos: How is the politics of displacement justified? What are the arguments used for the relocation of Marmato?

The government has been trying to negotiate with communities to relocate them. The argument is “environmental risk”. This is a very old argument. I recently visited this

place and they have started to relocate the village to some kilometers down the mountain. The inhabitants of Marmato know that the reality is that they are just seen as an obstacle for the mining corporation. As well, the local municipal authority has been corrupted by the situation. The natural leader of the community was Father Jose Restrepo who was recently murdered.

Session 3:

Agro-development, climate change and livelihood vulnerabilities

“Climate change, social vulnerabilities, and environmental refugees in Latin America” – Polo Diaz, University of Regina, Canada

Abstract: There is mounting evidence that climate change will impact large areas of Latin America. Based on various climate scenarios, the IPCC estimates that by the year 2100, mean regional temperatures will rise between 2° and 6° Celsius. However, at local and regional scales the major climate hazards are extreme conditions rather than shifts or trends in the means. Expected impacts involve, among others, the displacement of forests, reduction of the extent and volume of glaciers, loss of agricultural soil, biological imbalances and increasing pest intensity, sea-level rise, and water scarcities. These anticipated climate changes involve a serious threat for large segments of the regional population. However, it will disproportionately affect the livelihoods of poor people, forcing them to take extreme coping measures to reduce their vulnerability to the new climate conditions. The paper focuses on the climate and social conditions that could contribute to forced migration. Following the vulnerability approach and the results of several studies the paper discusses the potential consequences of shifts in climate variability and the frequency and intensity of extreme climate events on human adaptation and migration in the region.

I will first talk about climate change in general and then I would like to make some observations about Latin America. Finally I will talk about climate and displacement. In terms of global warming, by the year 2100 mean regional temperatures will rise

between 2° and 6° Celsius. We do not know exactly what the effects of climate change and global warming will be but it is clear that there will be both direct and indirect impacts. This transformation brings about many risks and some opportunities. Most certainly, it is already bringing about an increased number of natural disasters. This is evident through a comparison of the number of earthquakes in a given period of time, which remains the same as climate disasters have increased. Sea level will rise and human diseases such as malaria and dengue will spread.

Within the Latin American context, Central America is especially vulnerable to extreme events such as hurricanes. This has impacts on agricultural production for crops such as rice. As well, this will have a negative impact on the quality of fruit. The production of soybean will increase and there are ecological concerns related to this. How vulnerable is Latin America at this moment? We did research in three countries (Argentina, Chile and Bolivia), examining the vulnerability of local people to climate events. The conclusion is that there is an unequal distribution of adaptation capacity and that the role of governments in supporting their populations has been reduced in this regard due to the shift towards neo-liberal policies in the region.

Turning our attention towards climate change and displacement, it is difficult to know how climate change affects the displacement of people. To understand vulnerability related to climate it is necessary to understand the context and other vulnerabilities of the people concerned. We need to talk about a varied range of mobility strategies, not just displacement, which is one possible response among others. To develop a better understanding of issues related to climate

change and displacement, we need to realize that we are not only talking about displacement but rather a variety of mobility strategies.

“The Impact of New Development Models on Land Distribution and Land Rights in Colombia – the Case of Palm Oil” - Yamilé Salinas Abdala, Colombian Institute for Development and Peace Studies (INDEPAZ), Colombia

Abstract: Land is at the root of many violent conflicts and wars around the world. In addition to fighting over land and related natural resources, rural landholding systems often sustain patterns of gross inequality and widespread rural poverty that generate conflict. Land concentration, displacement, and the denial of land rights contribute further to patterns of political exclusion and disenfranchisement. Highly concentrated landholdings often significantly shape patterns of inequitable rural development. The unprecedented expansion of palm oil plantation economies in Colombia has exacerbated rural inequalities, leading to displacement of rural populations and increased environmental problems. In this context, alternative broad-based rural development and land reform could contribute as stabilizing elements to address internal displacement challenges.

In 1991, Colombia approved a new constitution that recognized the rights of Indigenous peoples, *campesinos* and Afro-Colombians. This took place at the same time that a neoliberal economic model was being imposed. In this context, oil palm has become an essential product of this model. During the government of Andres Pastrana (1998-2002), there had been confidence that the development of an agrarian reform was possible. The rural capitalization incentive

was created, a mechanism for the supply of lands to peasants.

However, oil palm production grew impressively between 2003 and 2010. In Colombia, it is not only used as agro-diesel. In 2004 production of agro-diesel began, and Colombia now has six industrial plants dedicated to this production. Thus, the business of oil palm production has been diversified and expanded. The problem is that this expansion has taken place in ethnic territories and areas that had already suffered situations of dispossession linked to the process of concentration of land.

Labour conditions are precarious and trade unions have been eliminated. In these territories there is an alliance between legal and illegal actors. An example of this was the Genesis operation, a planned dispossession that resulted in a legal process involving the prosecution of many politicians and members of the elite. All of this is linked to the problem of impunity: we have politics, economies, and institutionalities that exist outside the rule of law. Whereas some of the land has been returned to the people, they have not been able to physically return. While impunity is being challenged, the paramilitaries have not been held accountable through legal proceedings and the phenomenon of displacement continues. Of note, palm oil production is no longer financed by the United States.

“Trade Liberalization and Peasant Livelihoods” - Albert Berry, University of Toronto, Canada

Abstract: The defense of family (peasant) agriculture matters in Colombia for a variety of reasons. Most obviously, hundreds of thousands of small farmers have been forcibly expelled from their farms and

livelihoods; they deserve justice, which in many cases involves the restitution of their former lands or similar ones. Secondly, the smallish family farm is recognized (at least by most experts) to be a powerful vehicle for economic and social progress, when it is appropriately supported by public policy, as witness the success stories of East Asia. Third, Colombia faces a major challenge at the aggregate (national) level to create an adequate number of employment opportunities for its population. Meeting that need will require that small-scale agriculture remain an important absorber of labour for several decades into the future. Finally, environmental protection is usually better served by small farmers with a long run interest in their lands than by large firms or farms that often lack such interest. Each of these roles of peasant agriculture is under attack from two other economic sectors, mining and large-scale export oriented agriculture. Both compete for land with peasant agriculture, in ways ranging from normal market mechanisms to violent displacement and forced migration. Both also impinge negatively on peasant agriculture and other lower income groups in the society through the mechanisms of the Natural Resource Curse, including prominently the net negative impact on labour demand. Current and pending international trade and investment treaties affect these processes significantly.

What is a good framework for thinking about migration? From an economic point of view it is important to see the indirect factors that produce migration. Behind dramatic events there are other processes with major impacts on Colombia. Is there an alternative development model to the Colombian model that would work? Regarding the social costs in Colombia and other countries, are these the necessary costs of economic progress? The answer is no. We

should reject the notion that this is the only way to reach development.

The first window I want to use to address this question is the economy of small farms versus big farms. Productivity is higher in small farms (Paraguay might be a partial exception). Why is that the case? There is a debate. There is no doubt that there is an inverse relation between land productivity and size. In fact, most successful projects of economic and social development have been based on small farms. Many things worked well in such rural economies, something that the historical record exemplifies. All successful examples where there has been growth with equity, for instance in Scandinavia, Canada, US and so on, have been based on small-scale producers. This has resulted in fast, as well as equitable, economic growth.

The key is public policy support for agriculture, including for instance the development of new crop varieties and the provision of necessary infrastructure, etc. Despite a systematic record of success, too few countries have followed this model. Also, successful national development projects also have relatively low levels of migration. For example East Asian countries have the slowest level of urban-rural migration. Dominant ideology combined with the lack of economic knowledge is what promotes the big farm model.

Economic theory, which excludes other disciplines, over-simplifies. It tells us that freer trade will help some people and hurt others. The ones it helps will be the ones with relative advantage. For instance, palm oil has a comparative advantage in Latin America now. Freeing international trade can be good for equitable growth when it is labour intensive and farm based. However, trade often has the reverse impact, and does not result in the creation of jobs. Even

without the violence that surrounds the export of this crop, it would still work against the provision of labour.

In the real world there is a political economy of violence that lead to a redistribution of land. There is no question that the process of displacement is produced by the combination of the impact of violence and the weakness of relevant institutional frameworks.

For Canada, Foreign Direct Investment is prioritized, specifically in the mining industry. We are a country that does a great deal of mining exploration. It is also important to note that smaller companies in the mining industry are harder to hold accountable in comparison with larger ones. Many Canadian participants, for instance shareholders, have no idea regarding the actual situation on the ground. From the Colombian point of view, FDI has more of a negative impact than trade. This is due to indirect effects and the natural resource curse. A cross-country comparison aimed at figuring out the benefits and costs associated with natural resources exports, for instance minerals, found zero positive impact on growth in relation to having such natural resources.

Few countries actually manage their natural resources well and are able to reap the potential benefits. Rather, their exploitation results in civil war, corruption, etc. One country that did well in terms of growth impact and income distribution was Indonesia. It channeled earnings into small-scale farming. Colombia has two main problems: Mineral exports (which do not produce many jobs) and rural displacement that has affected small-scale agriculture. Colombia has to manage policy in such a way that it is able to overcome these obstacles.

“The relation between Economic Globalization and Human Rights in the context of the Canada-Colombia Free Trade Agreement: some notes on balance and responsibility” - Marco A. Velásquez-Ruiz, Pontificia Universidad Javeriana, Colombia, and José F. Gómez-Rojas, Pontificia Universidad Javeriana, Colombia (not able to attend)

Abstract: This paper intends to analyze the content and scope of the Free Trade Agreement signed between Canada and Colombia under the framework of the relation among economic globalization and human rights, emphasizing the significant role of multinational enterprises on such dynamic as well as the need to implement mechanisms of accountability in order to prevent or mitigate arguable adverse effects. In that regard, it holds that although the international agreement has incorporated a series of elements which can be seen as sensitive to the promotion and protection of human rights, it nevertheless may concur for the recreation of a scenario susceptible to the production of prejudicial effects –at different levels– to certain communities which are confined on a situation of special vulnerability. Finally, the paper proposes a series of alternatives to enforce the existent legal repertoire, where scholarship might assume a relevant role on the promotion and protection of human rights under the above mentioned context, through the follow-up of the obligations assumed by Canada and Colombia concerning impact assessment.

How do Free Trade Agreements exacerbate human rights issues? An FTA is a tool for the implementation of a certain kind of development model. This is linked to the deployment of legal tools that break the territoriality of law. As a bilateral agreement, the Canada-Colombia FTA is an international legal tool and framework

adequate for a neo-liberal model of development. Canadian investment in Colombia has grown significantly in recent years with corresponding negative impacts on communities. Many actors in Canada and Colombia expressed disagreement with the FTA, yet in the end it was signed.

Of note, the FTA does not specify the obligations of corporate actors. The concrete contents of Corporate Social Responsibility are not defined and therefore there is a lack of accountability for the private investors. CSR is simply assumed in article 816. The FTA does not take into account what will happen in practice in this regard. As a consequence, the incorporation of internationally recognized standards does not appear as an obligation. In terms of the dispute settlement mechanism, investors have no accountability. In fact, there is currently a total lack of mechanisms for direct accountability of investors. Bill C-300, which aimed to create mechanisms for accountability, was recently defeated in Canadian Parliament. In other words, corporations are not subject to international law.

I will finish with some suggestions of actions to move forward: It is important to follow up on symbolic cases; complement the annual human rights reports that the two states are required to complete through the issuance of shadow reports from civil society (i.e. human rights impact assessments); build transnational research networks; explore possible interventions in processes at the legislative level; work for the introduction of regulation in the Colombian context.

Session 3: Questions and answers

To Albert: What is required for greater productivity and impact of small-scale producers?

There is a package of things that is needed. This package should include research, marketing and infrastructure. The Instituto Colombiano Agropecuario has been done a great job. I think that it has been unfairly criticized. They were doing some interesting innovations. Whether Colombia could make this shift given the presence of large actors is an open question. The easiest way of doing this is to put a limit on the size of farms. Without that in Colombia it will be difficult to develop a sustainable path towards development.

To Albert: If the positive impact on economic growth from mining and petroleum is so low, how do you explain the political economy of some countries such as Norway? How do these governments see the world? What is the calculation within the state? What motivates such decisions?

The average payoff has been low, but in contrast at the top it has been high. For instance, Norway and Indonesia have seen significant benefits. On the low end there is Nigeria. Indonesia channeled petrodollars into small farms. This important awareness on the part of technocrats however slipped under the radar and is no longer an important point due to the neoliberal revolution. Economists point to some examples of trickle down due to their ideological biases. Some are persuaded due to vested interests.

To Polo: The predominant economic model is geared towards certain institutions, for instance, legal regimes, which are extremely biased in terms of responsibilities and

obligations. How does this bear on the aggravating effects of climate change?

Incorporating this issue into our governmental agendas is key. The most important thing for me is how to improve the capacity of people and regions. I think that in previous development models governments were more active (providing education, social capital, institutional support, access to infrastructure, access to technology, etc.). Their understanding of the economic reality was much different. Something that we have learned is that in the case of Chile and Argentina, much of that capacity has now been eroded. My impression is that with the neo-liberal model we will not go far. Obviously, those who do not have the capacity to get the resources are going to disappear - economic and social actors, etc. Even neoliberal governments can do certain things to improve their adaptation capacity.

To Polo: what is the role of technology in addressing climate change? How is current climate change different from previous eras?

This climate change is human-induced. This means that we might have the capacity to control the process. Technology can always help us, for instance, in relation to water scarcity. Yet, we need to understand that technology is not the only solution. The capacity of individuals to innovate also plays a role. Another comment that I would like to make: I just wanted to add another dimension to what Berry talked about (mineral extraction plus small farms displacement). We should also take into account that research in agriculture has

traditionally been a public good, but now it has been appropriated by the private sector.

To Albert: A key feature is missing in the discussion, the central challenge around employment and jobs in Colombia. The question of whether jobs are remunerative is important. Decimation of the ability of workers to organize is another important factor so as to enable workers to negotiate better conditions. Workers need to be in an enabling environment.

I was thinking of quality employment of course. Wages should be decent. The first requirement is the demand for labour, which creates the space for better conditions within work. Emphasis must be on decent work.

Ricardo's comment: Canada is going to sign an agreement with Europe, the most radical agreement since NAFTA. This agreement will limit policy space and autonomous capacities at the level of the local.

Session 4:

Legal regimes, human rights and Canada's role

Resolving “investment-induced” displacement in Latin America: Rethinking durable solutions – Megan Bradley, Saint Paul University, Canada

Abstract: The displacement of citizens of developing countries due to the activities of foreign investors and corporations presents significant challenges to the classical durable solutions framework and raises important questions that merit further attention from scholars, policymakers and practitioners. For example, does the (contested) designation of return as the "preferred" durable solution to displacement apply in cases of "investment-induced" displacement? What responsibilities do investors have to support the resolution of displacement caused by their economic activities? Drawing on cases from Latin America, the durable solutions literature, and research on the resettlement of populations displaced by state-sponsored development projects, this paper will examine the need to broaden both policy frameworks and theoretical conceptualizations of "solutions" in order to respond effectively to the challenge of resolving "investment-induced" displacement.

I agree with the idea that conceptual and policy frameworks are underdeveloped. The paper I will present today is based on the idea that there are many interlocking causes of forced migration. I am sceptical of attempts to categorize migration based on causation, as these are all intertwined problems. Some of the questions I would like to address are: What constitutes a solution to displacement? How are “beneficiaries” identified? Who is responsible for promoting/enabling displacement? What are the links between

investment-induced migration and other forms of migration based on other causes? Throughout the discussion I will bring questions relevant to Central America.

What do I mean by durable solutions? The durable solution system is based on three solutions to displacement, the idea that refugees will either a) remain within the country they moved to, becoming citizens; b) move to a third country where they would settle; or c) return to their own country once conflict has been resolved. Resettlement has been the predominant solution. During the Cold War, people were given the opportunity to settle in the North. We need to distinguish between dominant solutions and what are actually the desirable ones. When considering IDPs, we have to think about some changes to this framework: for many IDPs, there is an emphasis on resettlement and compensation given that return is not a viable option, for instance in a situation of flooding by a mega dam. International policy frameworks such as the UN interagency framework for IDPs are applied within many policy debates.

But they are difficult to apply when it comes to trade and investment induced migration. Because these IDPs are not recognized in the first place, we do not know when their needs are in fact met. What does displacement finally mean? It is difficult to separate discrimination in this specific form from broader causes of discrimination. For instance, in the case of marginalized indigenous peoples in Guatemala, how are the beneficiaries of a particular solution to be identified?

Within the IDP regime people are usually identified through official registries. Are we thinking about solutions for whole communities? In some cases, we should be thinking at the level of whole regions. What are the preferred solutions? Return is often

seen as the preferred solution for those displaced through conflict. This can be the expressed interest of populations or can be due to state response. However, there are challenging dimensions, for instance, cases of ethnic cleansing where return can be very difficult. Within “development” induced displacement, return is not seen as a viable option.

Who is responsible and accountable? Trade and investment displacement brings two new actors into the mix: corporations and typically Northern countries supporting exploitative practices/extractive industries. Compensation cannot be a real solution. In CSR platforms/documents, resolving displacement is not a growing concern.

We also need to think about the links between investment, displacement and undocumented migration. Undocumented migration is a common practice that is also sometimes induced by investment and trade. My concern is that in many cases this undocumented migration is not by any measure actually by choice.

“Managing Multiple Accountabilities: State obligations, trade regimes and human rights” - Gauri Sreenivasan, Canadian Council for International Co-operation, Canada

Abstract: This presentation will explore the contradictions and dilemmas for the Canadian State in terms of its accountabilities to international human rights and trade and investment law, using the case of Colombia. There has been sharp public and political debate on Canada's pursuit of a free trade agreement (FTA) with Colombia, a country in conflict where Canadian commerce and investment are highly associated with regions and processes linked to forced displacement and

human rights violations. How will the layering of a NAFTA-style FTA onto such a context affect human rights? What are some of Canada's major obligations under the trade deal? What are Canadian obligations to address possible Human Rights impacts? The presentation will also analyze the challenges and opportunities presented by a new legal treaty requiring the Canadian (and Colombian) governments to report annually on the effects of the FTA on human rights in each country.

The Canadian Council for International Cooperation (CCIC) was at the core of the campaign against the Canada-Colombia FTA. There is a longstanding concern regarding the relative weakness in the practice of the human rights regime vis-à-vis trade and investment regimes. The fulfillment of human rights should be at a higher legal order and the first responsibility of the state, but in general FTAs lack substantive mechanisms to address human rights issues. In cases of conflict between the two regimes, there is a bias towards investment/trade obligations. Power relations are enshrined within trade agreements.

We have talked a great deal about the negative impacts of FTAs but there is the potential for trade with human rights. There is no automatic relationship between trade and human rights violations. The Canada-Colombia trade agreement is one of the cases in which the agreement has a negative impact on human rights. Two variables may still affect the process even though it has already been signed: human rights instruments included in the agreement and the presence of strong human rights movements within both countries. It is important to understand that the trade agreement was advertised in Canada as being a special trade deal that contemplated

human rights protection. However, it turned out to be a standard aggressive market access agreement. The investment chapter is very significant. With regards to the agricultural goods chapter, there is a direct and reasonable concern of corporate complicity in occupation of land.

There is no evidence that investment flows result from trade agreements. In fact, investment usually precedes trade. The trade agreement has a legal and policy effect in the social environment and changes the balance of power. The Colombian state has to compensate for impacts on profitability so the treaty actually affects the autonomy of the country.

The effects of Canadian wheat on the Colombian economy will be negative. Barriers to items such as beans and wheat are to be removed. Safeguard mechanisms to protect farmers will be also removed. This will be a challenge for small producers.

The FTA requires each government to produce an annual report on the effects of the agreement on human rights in each country. Each report must be done within each country. These are not independent, but undertaken by the government itself. There is no requirement for follow up. The reports could be an effective tool if they helped to bring to light losses and gains for migrants resulting from trade and how local populations have benefited or been harmed. To date, there is no public information as to how each government will handle these obligations. There are attempts by civil society to identify norms and legal tools, for instance, the “Human Rights Impact Assessments for Trade and Investment Agreements” document (http://www.ccic.ca/what_we_do/Report_HRIA-seminar_2010_eng%5B1%5D.pdf)

We still have reason to fear that the reports will not matter much. I would like to finish by saying that civil society needs a great deal of support in these two countries and academics can make a big contribution in this regard.

**Labour Trafficking in the Americas -
Juliana María Vengoechea Barrios,
Pontificia Universidad Javeriana,
Colombia**

Abstract: There are many legal definitions of human trafficking, both in international legal instruments as well as in domestic statutes, particularly criminal law provisions. However, I wish to use a very basic definition, one that understands human trafficking as a social phenomenon, in the context of migration and labour.

Human trafficking as set forth in the following paragraphs is understood as the exploitation of a person's labour for the economic advantage of another, in which force is present and rights of the labourer are absent. Both force and exploitation are characteristics that make human trafficking a situation in which the person being trafficked lacks the ability to exercise rights and freedoms before its employer, and receives little to no pay for the labour he or she performs. The element of volition or consent might be absent from the very beginning of the employee-employer (trafficked person-trafficker) relationship. This is the case of a person who is brought into performing the labour against his will. However, human trafficking can evolve from a situation in which the person enters into voluntarily, but afterwards finds him/herself unable to leave.

Often when discussing human trafficking there is an overlap and confusion in the use of concepts and issues such as: human smuggling and forced migration. These issues are not mutually exclusive nor are

they interchangeable concepts. However, they are concepts that are closely related. A person who is initially smuggled into a country, either as a refugee in flight of persecution or as a labourer seeking work, can later find him/herself trafficked. Unfortunately, it is often the case that human trafficking and smuggling are clearly separated, and the trafficked migrant is seen as a victim whereas the smuggled migrant is seen as an accomplice to a crime. This understanding of the issues ignores the fact that migrants often face little or no choices either when fleeing persecution or leaving socio-economic insecurity. This assumption has shaped up many policies, leaving migrants with fewer and more dangerous options.

The following pages seek to bring light into the issue of human trafficking in the presence of the legal status of the migrant, focusing on human trafficking in the context of the agriculture industry in North America through the use of government regulated migrant worker programs. It aims to prove that human trafficking not only happens in direct violation or absence of legal regulations but rather as part of them. Subsequently, there is a discussion of the strengths and shortcomings of the different approaches that have been suggested to tackle with this problem.

This presentation focuses on labour trafficking in the Americas, especially in Canada and the United States. It does not focus on the criminal aspects of the problem, but understands it rather as a social process. Even though concepts such as human trafficking, smuggling, etc. are not mutually interchangeable, they are indeed interrelated. However, while in common understanding the trafficked worker is perceived as a victim and the smuggled worker is criminalized, in reality smuggled workers may easily become trafficked.

In the H2A Program in the United States the worker is tied to one employer. Labourers are also bound to a contract written in English. The Canada's Seasonal Agriculture Worker Program is based on bilateral agreements (similar to the Bracero Program). In this case 85% of people come to Ontario, the maximum stay is of 8 months. What matters is that exploitation patterns are similar in the two programs: first of all, people get into debt to participate; in the US, the employer is supposed to pay participation costs, but that does not happen. The employer holds the "deportation card" which basically means that he has a complete power over the worker. There are many wage and hour-related violations. For instance, the time labourers spend preparing the field is not taken into account.

One of the critical approaches to trafficked labour is the anti-slavery movement. This framework makes it easy for everyone to get outraged. It has been effective in mobilizing many people and this moral approach entails punishment to the traffickers. But there are several problems associated with this approach. It seeks a "perfect victim," someone who has been subject to enough abuse to be victimized. It excludes situations where basic human rights are violated in regulated, legal or less spectacular ways. The prosecution costs are high. There is a difficulty with weak evidence and also proving intent is difficult. As a result, the case is tried under other statutes, for instance, prostitution, pay wage violations, etc. It results in the prosecution of low-level traffickers who are easily replaced and border control is heightened, thus increasing the costs of traveling (and intensifying the criminalization of migrants). Such measures do little to ensure options for people who have been trafficked. For victims of human trafficking, access to a visa is often tied to

cooperation. They must comply; otherwise they are just denied access to the country or deported. This approach does not grasp the complexity of labour trafficking as a social process.

The Free Labour Approach has also been proposed: It has three strengths: a) it puts the focus on the worker rather than the trafficker; b) it tries to avoid relying on governmental resources but give workers ways to exercise their rights; and c) it focuses on creating alternatives. However, this approach has no political leverage and is very unpopular. A successful experience driven by this approach has been the Coalition of Immokalee Workers (Tomato capital of the United States). They launched a boycott targeting Taco Bell. Their aim was to start showing the labour violations to which people were being subjected. They also demanded one cent extra per pound of tomatoes to raise wages. The campaign started in 2001 and was successful in 2005. The ongoing payment goes directly to the workers through the coalition. The agreement established a code of conduct for agricultural suppliers. The same model was successfully applied to McDonalds. In British Columbia, a union agreement was reached that encompasses seasonal workers.

The idea of a “perfect immigrant” (one who does not fight for his/her rights) has been created. This enables the US to have a high immigration rate coupled with continued exploitation. Current legal frameworks help to perpetuate exploitation. Clearly, being “documented” is not a guarantee of being able to exercise workers’ rights.

Partners in Crime? - Extractive Companies and the Canadian Government - Karyn Keenan, Halifax Initiative, Canada

Abstract: Nowhere is the Canadian mining sector’s presence felt overseas more acutely than in Latin America. The region is the single most important destination for Canadian mining capital. The Canadian government is an important partner with this flagship industry, actively supporting mining companies’ overseas operations through the provision of both financial and political backing. Despite the government’s role as promoter, financier and shareholder of Canadian mining companies, this country lacks an effective policy and regulatory framework regarding companies’ overseas operations. Moreover, non-nationals who are the victims of human rights violations and other forms of harm associated with Canadian mining operations face enormous barriers to justice in this country. Canada is arguably failing to fulfill its ‘duty to protect’ under international human rights law and risks complicity in the wrongdoings of its partner companies. In the past six years, a number of initiatives have sought to reform the policy context in Canada regarding corporate accountability and the overseas extractive industry. Last year, legislation to enhance government accountability in this area was narrowly defeated in the House of Commons. This presentation will examine the government’s role as a critical partner to industry. It discusses the results of recent research regarding a government-funded mine that has displaced Quilombola communities in Brazil from their ancestral lands. Finally, it will identify proposed policy and legislative reforms to ensure that Canada fulfills its international human rights obligations regarding the overseas operations of its extractive multinationals.

The Halifax Initiative is a coalition of organizations working on the tracking of public financial flows to the private sector. It is a part of the Canadian Network on Corporate Accountability. Today I am going to speak about the Canadian government's relationship with the overseas extractive industry. First, I will examine its role as a partner to the industry. Then I would like to evaluate the government's performance in its capacity as a regulator of overseas extractive activity.

Latin America is the single most important destination for Canadian mining capital. In 2008, over half of Canadian mining companies' global assets were located in Latin America, at a value close to \$57 billion. The Canadian government actively supports mining companies' overseas operations, including in Latin America, through the provision of both financial and political backing. Export Development Canada (EDC) is a Crown corporation that provides financing and insurance to facilitate Canadian exports and overseas investments. Extractive companies are one of the largest recipients of EDC support. In 2008, EDC facilitated Canadian business in the Latin American extractive sector at a level worth over \$4 billion. The Canada Pension Plan is a publicly administered fund to which most working Canadians are legally required to contribute. The Plan holds equity worth approximately \$2.5 billion in publicly-traded Canadian mining companies that operate in developing countries.

The Canadian Trade Commissioner facilitates access to foreign markets for Canadian mining companies while Canadian embassies provide valuable political backing. Canadian embassies often support extractive companies when they get into trouble and liaise with foreign authorities to

create favorable conditions for extractive companies. These forms of government support are provided to Canadian extractive companies that are associated with environmental and human rights abuse, including forced migration.

This summer I undertook research regarding a mining operation in the state of Minas Gerais, Brazil that has received millions of dollars in loans from EDC. On one side, the mine borders the town of Paracatu while the ancestral territories of three Quilombola communities are on the other. The Quilombola are the descendants of escaped slaves and enjoy special protections under Brazilian law, including collective title to their traditional territories. The Morro do Ouro mine, operated by Canadian company Kinross, has expanded several times into Quilombola territory. The government agency charged with registering Quilombola title began its work relatively recently in Paracatu, long after the mining concession was granted and the company began its operations. Quilombola land has been sold off in individual plots and two of the affected communities have left the area. Residents have dispersed, fragmenting communities. The third community has held on to part of its ancestral territory but now lives on the edge of the open pit mine and fears loss of its remaining land. It is clear that the due diligence process associated with EDC's lending practices was insufficiently rigorous either to identify this risk or to trigger requirements regarding the protection of Quilombola lands. In addition, now that the Quilombola have lost their lands, there is no effective process through EDC for the Quilombola to access remedy.

During his mandate, which ended earlier this year, the UN Special Representative on Business and Human Rights developed a framework that clarifies state obligations

under international law regarding the overseas activities of multinational companies. Mr. Ruggie's "protect, respect, remedy" framework reminds us that home governments have the legal obligation to protect against human rights abuse, including abuse that is committed by corporations. Mr. Ruggie developed Guiding Principles to inform implementation of the UN framework. These principles stipulate that states must enforce legislation that requires business to respect human rights; call for states to protect against human rights abuse by business enterprises that receive support and services from state agencies such as export credit agencies; identify state based judicial and non-judicial grievance mechanisms as the foundation of a wider system of remedy; and identify state based non-judicial mechanisms as complementary and supplementary to judicial mechanisms – in other words, the judiciary is identified as the centerpiece of an effective system for remedying human rights abuse.

How does Canada measure up? With very few exceptions, there are no regulatory provisions in Canada that require Canadian companies to respect human rights overseas. Those regulatory provisions that do exist are rarely enforced. There are no human rights reporting requirements in Canada. Also, there are regulatory provisions that require state actors that provide financial and other forms of support to the private sector, such as embassies, the Canadian Pension Plan and Export Development Canada, to undertake human rights due diligence themselves or to require it of their clients.

Canadian policy in this area is also weak. The Government lacks an explicit policy articulating its expectation that Canadian companies respect human rights in their overseas operations. The country lacks a policy to include provisions designed to

protect human rights in its bilateral investment treaties and free trade agreement and does not proactively seek to ensure that international financial institutions and their clients operate in a manner that is protective and respectful of human rights.

In terms of access to remedy there are enormous barriers for non-nationals who seek legal redress in Canada. Thus far, those who have sought justice before Canadian courts have failed. The non-judicial complaint mechanisms in this country are either ineffectual or extremely limited in scope.

In 2009, the Government of Canada released its first policy document regarding overseas corporate social responsibility. The CSR strategy was the government's response to a consensus report developed by civil society and industry that called for the adoption of a policy to link government support for companies with respect for human rights; and the creation of an independent and credible non-judicial grievance mechanism with the power to undertake fact-finding, to make determinations regarding corporate compliance and to issue recommendations.

The government's CSR policy promotes performance guidelines, including the International Finance Corporation's Performance Standards, which are widely criticized for their deficiencies in the area of human rights. The government provides no incentive for industry to comply with the guidelines, and in particular, fails to link compliance with the provision of government support.

The government also created the Office of the Extractive Sector CSR Counsellor to receive complaints regarding the overseas operations of Canadian extractive companies. While the office may prove

successful in supporting dialogue in relatively straight forward, non-contentious cases, it is unlikely to resolve the serious cases that plague the extractive sector. The office does not undertake fact-finding, does not assess wrongdoing and does not apply sanctions. It is also constrained by limited resources and the discretionary nature of its process – that is, the inability of the office to compel corporations to participate in its procedure.

And unfortunately, the office supplemented existing complaints mechanisms that had proven effective in resolving conflicts and providing remedy (such as the National Contact Point created by Canada through the OECD). The CSR policy also includes new CIDA programming in communities that neighbour mine sites. Thus far there is little transparency about this initiative but it raises concerns about the use of development assistance to facilitate or legitimize commercial objectives. This is of particular concern as it involves the mining industry, a sector associated with significant adverse impacts to human rights. Neither the policy nor legal context in Canada addresses the challenges that we have heard about today nor does it respond to the UN Framework and Guiding Principles concerning business and human rights.

What should be done? A few places to start:

1. Legal requirements for government agencies and their private sector clients to undertake human rights due diligence.
2. Legal restrictions prohibiting the commission of serious human rights violations by Canadian companies overseas and the application of effective sanctions.
3. Binding human rights reporting obligations.

4. The inclusion of human rights obligations in bilateral investment treaties and free trade agreements.

5. Regulatory provisions that afford access for non-nationals to Canadian courts.

6. The creation of an independent, effective extractives ombudsman.

7. Leadership on the part of the Canadian government in the development of an international legal instrument regarding business and human rights.

Session 4: Questions and answers

Liisa: Canada has been a signatory to the Corruption of Foreign Public Officials Act for about 15 years. Of all the G7 countries, a recent report highlights that Canada is the country that has undertaken the least amount of actions under this act. Civil society forced the RCMP to look at one particular case of mining corporations in southern Mexico.

To Karyn: With regards to the argument of regulatory chill, does this result in shirked responsibility on the part of the state?

The regulatory chill defense is a double-edged sword. There are governments who will not take action and will simply use the threat of retaliatory action by investors as an excuse. This can provide too much of a convenient excuse for inaction. The US has never lost an arbitration case, something that can be taken as an indication of corruption: There is a concern that arbitrators do not want to “bite the hand that feeds them”. In the South African case the state was subject to a challenge by an Italian company regarding its Black empowerment policies. There was outrage from South Africans from all sides. South Africa will now no longer sign trade agreements, realizing the potential threat of these treaties. However, there was also the ethanol case where Canada backed down and paid money.

Given the high costs associated with this case, this was considered an acceptable caving on the part of public officials. In the example of the Marlin mine in Guatemala, the government is provided with a convenient excuse to not suspend the project. No trade agreement provides a remedy or opportunity for victims to claim human rights violation. However, some of the bilateral trade agreements take labour into account, for instance, NAFTA. However, the strongest response the labour side deal can provide is a ministerial statement or directive. In Colombia, that could amount to a fine. However, even that would require that both parties have to agree and this never happens.

To Karyn: Was Bill C-300 inspired by the US Alien Torts Claim Act?

Alien Torts Claim Act in the US enables non-Americans to sue companies within American courts. The accused does not have to be an American company. This was not the inspiration for Bill C-300. The proposed legislation did not create space for legal remedy, but rather would have forced Canadian government to ensure companies comply with certain social standards to receive the benefits outlined. It would also have created a non-judicial complaint mechanism that would have the power to do fact-finding and publicly disseminate information. The bill was admittedly quite limited. The aim was that it would go through and serve as a first step. The current NDP private members bill (Bill C-323, The International Protection and Promotion of Human Rights Act) is similar to the Alien Torts Act. Canadian Courts accepted a Brazilian case relating to mining but then threw it out on jurisdictional grounds. The fact that the case was allowed within Canadian courts was precedent setting.

To Karyn: What about public awareness of Canadians about these issues?

Regarding the impact on the Canadian public I should say that regular Canadians do not have a clear idea about petroleum and mining sector activities abroad. They have even less information about the link between these industries and the pension fund. It is very difficult to reach the mass media. In our campaign we tried to mobilize people in different sectors of society. Only when the Canadian public becomes aware of these issues will we see a change of policy.

A number of cases are pending. Two pending Guatemalan cases have to do with security forces being hired by a company. The primary question is whether the court accepts jurisdiction and hears the case. Another pending case concerns armed forces in the Congo who killed people. The Canadian government lent them resources, thus enabling them to commit these violations. That case is presently in Quebec courts. The argument is that Canada should have known this. In that case, Quebec accepted jurisdiction, though the company is contesting. Blackfire Corporation is also being accused of corruption.

To Karyn: Are the people who were forced to migrate because of foreign investment/commercial activities considered forced displaced people?

There is no trade agreement that provides a remedy or opportunity that allows a claim for human rights violation. They provide an opportunity for dialogue but that is the highest step that can provide. In NAFTA a case has never reached that point. The two parties have to agree.

Closing remarks and Preparing for tomorrow

Beatriz Sanchez, Universidad de los Andes

We have been enriched by this discussion. I have some questions for you: What do we finally mean by forced migration? Should we put all kinds of migration together? Or, do we want to create a unique category of forced migration? How useful is this? Do we need to go beyond “state responsibility”? Do we need to include international corporations in the conversation? Do we trust in the legal system of the developed world, or should we build our own structures

within the “Third World”? What is in the best interest of IDPs/refugees?

Deborah Konecny, Catalyst Centre, Toronto, Canada

Deborah says a couple of words about tomorrow’s activities: How can we move from all this shared information to a shared process? Tomorrow we will have this conversation. What can be done, in concrete terms, with all the material that we shared today? What we need to have at the end of the day is a plan of action and a list of things.

Day 2 - October 14, 2011

Opening Remarks

Eduardo Canel underlined that this international workshop is part of a much broader project meant to foster collaboration between Canada and Latin America (including Colombia) around the issue of forced migration. Our goal for the second day is to develop new theoretical frameworks and new thinking about policy. The intent is not to reach a consensus but rather to create synergies. The character of the workshop is admittedly exploratory, an attempt to identify common research issues to pursue as well as concrete steps for moving forward. It is our hope that today will provide an opportunity for discussion regarding how to work together, recognizing that other groups beyond those gathered here share the same concerns that should also be taken into consideration. We have been considering whom to include in the framework of forced migration, and the concern has also been raised that broadening our definition could result in the concept losing specificity and explanatory meaning.

We are invited to enter into today's program that has been planned using the tools of popular education. While we academics, sometimes use popular education in our own research projects, we may feel a certain level of scepticism in applying it to our own collective work of developing a collective research agenda. Today, we are involved in two modes of action: We want to keep the floor open to the flow of ideas. At the same time, we are trying to find some common ground. Today's program is meant to help us plan for future collaborations between Canadian and Latin American researchers in the area of migration and displacement.

Last year, the partners that organized this Workshop applied to SSHRC for a Partnership Grant to advance this collective work. Though not selected, our application was viewed favourably and so we are reapplying this year. The character of today's workshop is exploratory. It is meant to start to put some of the pieces of the puzzle together though the goal is not to put the whole puzzle together today. As academics, we are sometimes not very good at being concrete so today's facilitated session is meant to help us develop a plan to move forward. We also want this space to include a discussion on how we work together, how we are thinking about a more formal structure in the future. How do we think in partnership between researchers and people from NGOs? As we begin, let me suggest that we trust the process and trust our facilitator. Alan will say a few words to help us to conceptually think about the issue at hand.

Alan Simmons offered a few comments meant to provide food for thought. The research questions are important. What are the key research questions we want to address? And then, how do we work together on research, cutting across a variety of interests? How do we see our collective interests as a package? We begin from a critical perspective, not just seeing ourselves as researchers but also as activists. We especially feel the absence of those who are not here, officials, those from international bodies, from government and so forth. We remember we need to find ways to bring them in to our conversation in appropriate ways. A critical perspective needs to be humble. As researchers and staff from NGOs we are aware of our own limitations, and so we need to find new ways to look at issues so as to include different people and research possibilities.

We recognize the relationship between monitoring of states and legislation. We remember that one is not useful without the other, that interdependence matters as we consider our common interests. As we consider specific questions, we remember that the two kinds of denial need to be separated out. One kind says that mobility is a normal and desirable feature of structural adjustment within a neoliberal regime, dismisses forced migration by saying, “people move as a result of work” and does not look any deeper. This perception is so normalized that sometimes people do not want to see anything else. Then there is another kind of denial that ignores the fact that many rural areas in the region are very much lawless areas, that because of this they attract corruption, reproduce violence, thus further compounding this lawlessness.

We need a causal analysis that does not simply deal with those who have been displaced but also those who have been forced to stay. What are we trying to explain? We will have an open-ended list, but at the start migration due to physical violence was a major issue. Violence is still at the core. This draws our attention to people who have no choice about when and where to move. We need the dimension of vulnerability, to move beyond a mere yes/no answer regarding whether someone should be considered a forced migrant. We also need to clarify if we are talking about Colombia or Latin America or both, since the research agenda varies based on the geographical and state differences. We also need better research on regulation and better data on what is happening on the ground.

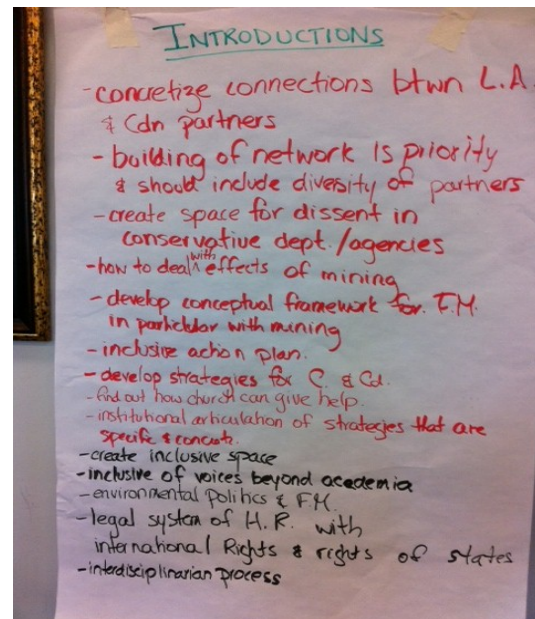
Eduardo Canel emphasized the importance of working together, Latin American and Canadian partners, as we engage today’s process with the hope of having concrete

ideas come out of this international workshop regarding what to do next.

Deborah Kocecný provided an overview of the agenda for the day, emphasizing that the goal is really about protecting these relationships that are key to our collective work. For that reason we are committed to simple guidelines, to take ourselves through the day, to respect the discussion, to remember our responsibility to both ourselves and to the group. The idea is that we will finish with a concrete plan for collective action.

The introduction to the day was concluded with a simple exercise in which participants worked in pairs to describe the burning conversations they are hoping to have and their goals for today’s workshop. Participants took turns introducing each other to the whole group to gain an understanding of some of the emergent issues.

The following pages summarize some of the issues that came up in the first part of the second day.

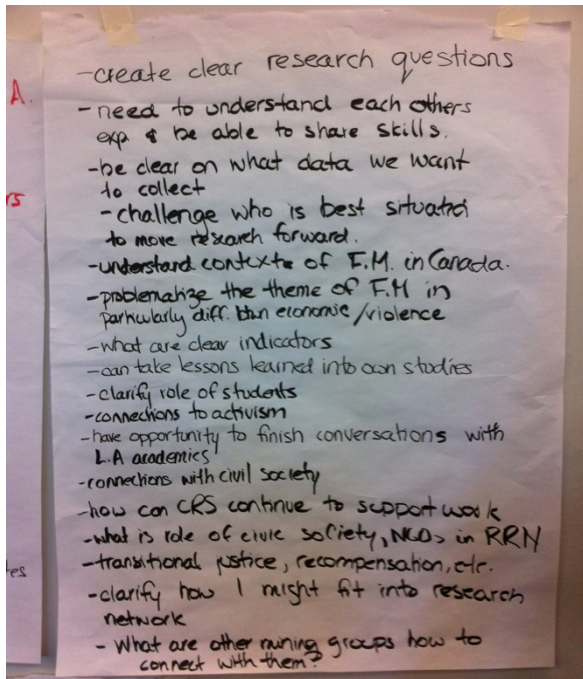


Our hopes for today: the burning conversations we want to have:

- ❖ Building this network, taking into account the interests and expectations of the diversity of partners from Latin America and Canada.
- ❖ Consider ways to create space for dissent in conservative faculties and agencies.
- ❖ Develop a conceptual framework to understand forced displacement within the context of mining.
- ❖ An inclusive action plan that considers all the partners, including active voices of those who are directly displaced, academics, NGOs, etc.
- ❖ Decision-making regarding an advocacy strategy at various levels in both Canada and Colombia.
- ❖ Establishing support for the Colombian church so that it can be more effective in its accompaniment work.
- ❖ A strategy for moving forward that translates into concrete actions.
- ❖ A space for knowledge sharing and building.
- ❖ A comfortable place to share ideas and experiences beyond the academic language.
- ❖ Exploration of the social effects of economic processes as related to migration.
- ❖ A focus on internal displacement, considering how the UN model and its principles have played out in Colombia.
- ❖ Interdisciplinary processes.
- ❖ Clarification of the grouping of different interests.
- ❖ Define clear research questions and a process to do so.
- ❖ Consider possibilities for a comparative perspective.
- ❖ Network to look at forced migration across Latin America.
- ❖ Clarify what is the added value each of us brings.
- ❖ Define an agenda based on people's strengths.
- ❖ Recognition that migration is a broader topic.
- ❖ Problematize the simplifications of the past such that the roles of both state and non-state actors are considered.
- ❖ Problematize the compartmentalization of different forms of migration.
- ❖ Collective articulation of different forms of violence.
- ❖ Focus on clear indicators of forced migration.
- ❖ Gain a sense of how CRS can build on the links already been established in the context of broader work within Latin America.
- ❖ Consider issues of transitional justice, restitution and compensation.
- ❖ Tapping into networks and spaces where people are working on mining and might already have information.
- ❖ Learn about lawsuits that have been initiated.
- ❖ Very important to establish the conceptual and methodological framework for joint research, recognizing neoliberalism as the overarching reality.
- ❖ Consideration of rural development issues given climate change
- ❖ Focus on the dynamics within communities and their capacity to respond.
- ❖ Interested in financial flows of state funds to companies and what those companies are doing. Wants to push for stronger accountability.

mechanisms, greater transparency and robust policies to guide those investments.

- ❖ Grapple with the concept of vulnerability and its relevance to the process of forced migration Learn how communities respond to forced migration.
- ❖ Law as an instrument of social revindication.



Involvement of students in the network?

A discussion ensued regarding the ways that students are or could be included. These are the main points of that discussion:

- ❖ York University graduate students are already involved as graduate assistants. The New Scholars Network provides a space open to students within the Refugee Research Network.
- ❖ A suggestion that professors collaborate with students such that thesis and research paper topics can be aligned to this research agenda.
- ❖ Some universities face an additional challenge due to the lack of graduate programs.
- ❖ Concrete ways need to be opened which allow students to be part of this space, to do research and focus their theses on related topics
- ❖ Student placements at York or in various places in Latin America to do research and be part of these discussions.
- ❖ Students should be integrated as members, with the same responsibilities. This involves development of capacities and mentorship.
- ❖ Students have much to contribute in terms of knowledge and research
- ❖ Need to think beyond engagement of graduate students at York so as to reach out more broadly.
- ❖ Canadian NGOs have space for international students who come to Canada to do research; this could be a great learning experience, as activism within Columbia and NGOs is different.
- ❖ Organizations in Latin America can apply to have a York student come as an intern through York International Internship Program.

Identifying Research Themes:

Participants broke into groups of 4-5 people; individuals in each group were asked to share themes and ideas they had for the Network. After the small group discussions, each participant was asked to share a phrase (or key words) about a research theme that interested them and that may be picked up by the network (see list below). These ideas were then collected on a large chart on the wall in order to surface common research themes:

- ❖ Intersectionality of divergent identities i.e. sexuality, gender, ethnicity, etc.
- ❖ Whose violence, corruption and barbarity are we talking about? Need to problematize the North South divide.
- ❖ Inclusion of spaces for non-network participation (physical and electronic).
- ❖ How do the two systems of law and regulation converge or diverge? (Human rights vs. investment rights)
- ❖ Vulnerability in a neoliberal framework (neoliberalism as a producer of risk).
- ❖ What explains different responses (i.e. community, civil society, etc.)? What are the possibilities for monitoring and having an impact on forced migration?
- ❖ Transnational regulation of investment induced displacement.
- ❖ Transnationalism as a frame for positive action.
- ❖ Social justice: Praxis equals theory plus action oriented by specific values.
- ❖ From coexistence to cooperation, a matter of mutual recognition.
- ❖ There is a clash between simple, planned responses and complex

- processes; the response from states seems oversimplified.
- ❖ Collective work should be based on certain strong principles.
 - ❖ Thinking of our research as a bridge between theory and practice.
 - ❖ Vulnerabilities and resiliences in a violent (i.e. neoliberal) place.
 - ❖ Need to learn about the experience of Canadian investment outside of Colombia; thinking of a regional approach to support a burgeoning action/research interest in this topic.
 - ❖ Focus on prevention of forced migration.
 - ❖ Forced migration as a problem of the economic/political system.
 - ❖ Move from humanitarianism to political approach; politicizing the question.
 - ❖ Focus on how local experiences inform broader conceptualizations.
 - ❖ Displacement as one of many problems related to extractive industries.
 - ❖ A development for people (men and women), not people for development.
 - ❖ How to share experiences regarding the many effects related to extractives.
 - ❖ Support clusters of academics/activists to achieve their goals.
 - ❖ How can we articulate our responsibilities in the international investment system?
 - ❖ Debate around the meaning of “incidencia”: Does it mean impact or advocacy work?
 - ❖ Who are rights holders? There’s a hierarchy of rights holders and we would like to see that adjusted.
 - ❖ We’re trying to change a structure and using advocacy to change that.
 - ❖ Development of an approach that provides a bridge across the boundaries, provides a transition between concepts and points of view.
 - ❖ How to share experiences of the effects of extractive industries.
 - ❖ Investment right and human rights.

Collective process to identify themes for the afternoon's small work groups:

We collectively considered the above list and initially collected the items into several clusters based on affinities, though without specifically delineating what the grouping actually is based on. Then we discussed possible labels that made sense to identify the different groupings. Some large themes were initially identified, such as impacts, human rights versus investment rights, hierarchy of rights holders and so forth. Various suggestions were made regarding possible schemes to organize the ideas. A discussion ensued which led to a differentiation of the ideas based on whether they had to do with structure, philosophy or project/issue areas. A further suggestion was to consider the ideas in terms of a series of criteria, including the following: proposals for a core research question for the network (can a single research question actually define the network's work?); matters having to do with advocacy; conceptual and theoretical frameworks (neoliberalism as a framework in which investor and human rights are analyzed); structure, philosophy and communication issues for the research network; socio-environmental impacts.



Over the lunch break a committee further distilled the results and brought back a concrete proposal for dividing up into small groups based on three specific areas of focus that were identified based on the morning's work. The participants agreed to the proposed themes.

Ultimately, the collective agreed to the following three research themes to be further developed during the remaining of the Workshop:

1. Law/regulation
2. Vulnerability
3. Advocacy/civil society

The participants divided themselves into three groups to discuss one of the research themes. As well, each small group was asked to examine their thematic area based on the following dimensions:

- ❖ Issue
- ❖ Research question
- ❖ How the issue relates to advocacy
- ❖ Concrete next steps
- ❖ What do you need from the refugee research network to move forward?

The following session of this report provides a summary of the themes raised in each small group.

SMALL GROUP 1:

Law/regulation

Issue:

This small group identified the legal sphere, law and regulation, as part of the problem (both national and international levels of law) as well as relevant to solutions for addressing rights protection and the situation of forced migration. The solution aspect implies both the application of existing norms and laws as well as the transformation or development of law. The group also identified two perspectives relevant to their thinking that must be kept in mind: “Where?” and “Over what?” There are several dimensions (scales) relevant to these, including the national, international and transnational level.

Research questions:

1. Corporate responsibility: What expressed responsibilities do transnationals already have in existing law? What norms need to be created in order to address the current situation?
2. Tensions between international human rights regime versus international protections for investments: Given the problematic relationship between human rights and investor rights, what can be done to harmonize that relationship?
3. Which actors and power structures need to be considered in the investigation of the process of creating new norms to protect human rights in this area?

Advocacy/actions (occurs at different levels):

1) National

- ❖ Congressional lobby
- ❖ Constitutional court in Colombia
- ❖ Defensoria del Pueblo
- ❖ Establishing accountability mechanisms at local level
- ❖ Academia (as forum for discussion and visibility)

2) International

- ❖ United Nations; International tribunals; Alternative tribunals (i.e. permanent people’s tribunal)
- ❖ Work to change rules regarding responsibilities within countries
- ❖ Given that weak normative structures at present, an alternative strategy of attacking corporate image of companies which are connected to forced migration (cost/benefit of doing so needs to be considered)

Next steps:

- ❖ Need to establish a map of relevant actors and “scenarios”: Who are the powerful actors and who are the victims?
- ❖ Need to establish channels of communication/cooperation between researchers and civil society (i.e. NGOs)
- ❖ Need to distribute tasks

What we need from RRN to support the work?

The network can serve as a platform for different actors to communicate and cooperate.

SMALL GROUP 2:

Vulnerability

Issue:

The conversation began with a focus on defining what is meant by the notion of vulnerability that provides an outline for a model of vulnerability. The group recognized that it is historically understood in terms of armed conflict and decided that two classes of vulnerability exist which relate to each other: vulnerability to violence and vulnerability to forced displacement. However, sometimes vulnerability to violence is reflected in an inability to displace.

The group identified three dimensions of vulnerability, as related to: economic, environmental and physical violence. The group recognized that multiple vulnerabilities lead to greater levels of marginalization (i.e. the relationship between ethnic group and class) and that power is sometimes reproduced in leadership structures. What makes a community more or less vulnerable? What are the expressions of vulnerability that exist within specific communities?

The group queried the way in which fear can undermine the very sense of community, noting that this is somewhat different from a community which does have a sense of itself but is experiencing oppression where outside actors (strategic, economic, armed, etc.) wield power and must be confronted. Sometimes an aspect of vulnerability relates to a lack of knowledge about who exactly is wielding power. This in itself is a form of violence that leads to people not speaking to one another in a community out of fear, something especially true in displaced communities.

The group noted the issue of resilience, that communities are adaptive (i.e. short-term displacements due to flooding or presence of armed groups). Vulnerability was thus also explored in terms of relevant time scales: There may be short-term threats that lead to short or long-term displacements. Does vulnerability mean not being able to return? Or to having a certain level of wellbeing (or lack of) while remaining in displacement? Food insecurity and lack of access to water may fit in as short or long-term vulnerabilities. Damage to the environment creates long-term vulnerability. For instance, natural resources will not be available within the future for one to sustain oneself.

Vulnerability, when related to poverty can be exacerbated by geographical isolation, something organized civil society can help to address by providing supports for temporary displacements that include the option of return. Specific populations are seen as particularly vulnerable (i.e. specific ethnic groups). Vulnerability is also understood in terms of the ability to adapt to change, even to catastrophic situations (war or natural disaster) and so adaptation can be seen as the result of agency. The logic of neoliberalism is in fact to enhance vulnerability so as to put a specific economic structure in place.

Where do researchers get needed data? Because asking vulnerable populations directly is not always possible, it may come from reports (i.e. radio), statistics (although it is difficult to know how accurate these are, i.e. homicide rates may be underestimated).

Research Questions:

- ❖ What vulnerabilities exist to (physical) violence?

- ❖ What vulnerabilities exist to factors that lead to forced migration?
- ❖ What vulnerabilities exist which cause displacement even when it may not be considered to be ‘forced’?

Advocacy/actions:

- ❖ Identify a set of indicators of vulnerability
- ❖ Once these are identified, define actions to be taken.
- ❖ Dialogue with affected community
- ❖ Publicity with NGOs (Colombian NGOs lack sufficient data to support their work)
- ❖ Critical discussion of government policy
- ❖ Understanding of structural factors in order to promote prevention of forced migration

Next steps:

- ❖ Clarify concepts and the complexity
- ❖ Define/create a matrix/framework
- ❖ Define a methodological definition of vulnerability: what information is needed and available?

What we need from RRN to make this happen?

- ❖ Establish a discussion and work group within the network.
- ❖ Need to collaborate with NGOs and have an understanding of the connections they already have so obtain information (i.e. who are their existing partners) so as to not duplicate work/effort.
- ❖ Resources.

SMALL GROUP 3:
Advocacy and Civil Society

Issue:

The group started with the premise that people need to advocate for themselves, and asked how they are able to do so. On the one hand, there are contextual questions that facilitate or inhibit advocacy or community action; on the other hand, there is the matter of community/civil society capacities. We noted that traditionally, forced migration has been associated with exceptional cases but that we are in fact associating forced migration with situations related to what are considered as ‘desired’ processes such as development and investment. This is a critical difference that has methodological implications.

Cases that have to do with Canada and Colombia can be used as the basis of a salient model, one that has legal and political implications. In the area of advocacy, it is important to consider the capacity of the state to respond in terms of following-up of companies, the strengthening of civil society, the creation of public opinion and the strengthening of affected communities.

Research questions:

The research question needs to get at this more complex understanding of forced migration.

1. What constitutes an enabling environment for community/citizen advocacy? Dimension of the question include: Political freedom; threats; advocacy; criminalization of dissent.

2. How can citizen/community advocacy capacities be strengthened?
What resources are needed?
3. How can the understanding of displacement as on-going process due to development rather than as exceptional (due to war) be shifted?
4. Following up of Canadian companies (behaviour/actions) in Latin America to provide solid data.

Advocacy/actions:

- ❖ Work to change policy – through cases
- ❖ Legal challenges
- ❖ Accompany communities' struggles
- ❖ Strengthen/support civil society organizations' advocacy, including through research/training (Mining Watch Canada is key)
- ❖ Influence public opinion/communication
- ❖ International level political work needed

Next steps:

- ❖ Clarify general problematic – special focus on Canadian commerce and investment
- ❖ Identify criteria for key/emblematic case studies
- ❖ The RRN can support this research

Conclusion to Second Day

Beatriz Sánchez Mojica, Universidad de Los Andes, Colombia

What are the connections and gaps based on our small group discussions and our presentations of these results? There are many similarities, and we now have a foundation from which to move forward. For instance, the neoliberal framework and its impact on displacement, referred to as the structural conditions for displacement is an element that emerged in all of the discussions. Related to this theme is the role of transnational corporations and the relevance of norms and laws. As well, some issues emerged in specific groups, such as the need to do advocacy within communities versus the idea of creating information that would be useful for advocacy purposes. One group looked at the vulnerabilities that communities face whereas other groups looked at their existing strengths. Both are important. Everyone has the capacity for agency, although there is also a need for support. Needs assessment and community mappings will lead to new and different perspectives that are useful.

Something that did not emerge was any apparent rift or division between those who have worked on displacement in the past and those who have worked on other issues. We have seen the emergence of a common ground. Each group did not simply identify their own questions but rather sought an approach that incorporates issues of advocacy and broader perspectives relevant to potential research areas.

I have never been part of an exercise like this before. It is clear that many in Canada have been working on issues related to those people in Colombia are also working on, that we are not starting from scratch. Three

things have become clear: First, there is a relationship between the national, international and transnational which needs to be considered as we focus on both causes as well as solution. Second, there is a necessity that we work between the academy and the sphere of NGOs. And finally, that we need to produce an understanding that enables us to do advocacy.

I am left with two questions: How will we remain connected? What will we do with the information we have shared during this workshop? Moving forward, a challenge will be the issue of leadership. Where does the leadership come from? People should not feel burdened but rather willing to work with others to help define strategies. What does that mean? Who needs to be involved? Working groups need a couple of people to move forward. Also, what is the forum to share the information now in the creative stage? Will we publish the results?

Some ideas about how to socialize information from this workshop:

- ❖ A special issue of a journal (CRS and Javeriana both have journals which could publish the papers produced for this workshop).
- ❖ They can also be published online on the website where the information about the workshop is already available.
- ❖ There will be a report published about the workshop itself.

Appendix A

Workshop Program

October 12 - York Research Tower - 8th Floor Lounge, York University

18:00 – 20:00 Workshop Welcome and Reception

October 13 - Founders Common Room (Founders 305), York University

08:30 - 09:00 Light breakfast

09:00 - 09:30 Official Workshop Opening

Opening Remarks: Susan McGrath, Director, Centre for Refugee Studies, York University, Canada, and Roberto Vidal, Pontificia Universidad Javeriana, Colombia

09:30 – 10:30 **Session 1:** Overview of issues and concerns

Chair: Eduardo Canel, Centre for Research on Latin America and the Caribbean (CERLAC), York University

Violence and Forced Migration in Latin America: The Causes of Forced Displacement from a Migration Systems Perspective - Alan Simmons and William Payne, York University, Canada

Launching of a new Latin American network on Forced Migration: Summary Report (tentative title) - Roberto Vidal, Pontificia Universidad Javeriana, Colombia

Gains from trade? Exploring the impacts of trade and investment on vulnerability and displacement - Ricardo Grinspun, York University, Canada

Prevention of forced migration and investor security in the global economic framework: Colombia as the Latin American example? - Fabio Lozano Velasquez, Organization for Human Rights and Displacement (CODHES), Colombia.

10:30 – 11:00 Questions and answers

11:00 – 11:30 Coffee and tea break

11:30 – 12:30 **Session 2:** Trade liberalization and corporate penetration in the extractive sector

Chair: Liisa North, York University, Canada

Space production, foreign investment and displacement in Colombia: Some effects of the economies of mining and energy generation - The case of Canadian Investment - Jairo Estrada, Instituto Latinoamericano para una Sociedad y un Derecho Alternativos and Universidad Nacional de Colombia, Colombia

Internal Forced Displacement: The price that must be paid for development? A case study on extractive industries – Beatriz Sánchez Mojica, Rene Urueña and Yadira Castillo, Universidad de Los Andes, Colombia

Social and environmental impacts of mining in Colombia: Ecosystem transformations and migratory dynamics in Afro-Colombian communal lands – Pablo Ramos, Pontificia Universidad Javeriana, Colombia

Challenges for the Church given the impact of extractive industries in Colombia - Fr. Juan Cardenas Toro, Secretariado Nacional de Pastoral Social, Colombia

12:30– 13:00 Questions and answers

13:00 – 14:00 Lunch break

14:30 – 15:30 **Session 3:** Agro-development, climate change and livelihood vulnerabilities

Chair: Rene Urueña

Climate change, social vulnerabilities, and environmental refugees in Latin America – Polo Diaz, University of Regina, Canada

The Impact of New Development Models on Land Distribution and Land Rights in Colombia – the Case of Palm Oil - Yamilé Salinas Abdala, Colombian Institute for Development and Peace Studies (INDEPAZ), Colombia

Trade Liberalization and Peasant Livelihoods, Albert Berry, University of Toronto, Canada

The relation between Economic Globalization and Human Rights in the context of the Canada-Colombia Free Trade Agreement: some notes on balance and responsibility. Marco Alberto Velasquez Ruiz, Pontificia Universidad Javeriana, Colombia and José F. Gómez-Rojas, Pontificia Universidad Javeriana, Colombia (not able to attend)

15:30 – 16:00 Questions and answers
16:00 - 16:10 Coffee and tea break

16:10 – 17:10 **Session 4:** Legal regimes, human rights and Canada's role

Chair: Susan McGrath

Resolving “investment-induced” displacement in Latin America: Rethinking durable solutions – Megan Bradley, Saint Paul University, Canada

Managing Multiple Accountabilities: State obligations, trade regimes and human rights

- Gauri Sreenivasan, Canadian Council for International Co-operation, Canada

Labour Trafficking in the Americas - Juliana María Vengoechea Barrios, Pontificia Universidad Javeriana, Colombia

Partners in Crime? - Extractive Companies and the Canadian Government - Karyn Keenan, Halifax Initiative, Canada

17:10 – 17:40 Questions and answers

17:40 – 18:10 Closing remarks and Preparing for tomorrow

Deborah Konecny, Catalyst Centre and York University, Canada; Beatriz Sánchez, Universidad de los Andes, Colombia

19:00 Dinner - Schulich Dining Room

October 14 - Founders Common Room (Founders 305), York University

08:30 - 09:00 Light Breakfast

09:00 - 16:00 Building Canadian-Latin American Partnerships / Exploring a joint research agenda - Facilitated Discussion Deborah Konecny, Catalyst Centre and York University, Canada

11:00 - 11:30 Coffee and tea break

13:00 – 14:30 Lunch break

16:00 – 16:30 Closing remarks

Beatriz Sánchez Mojica, Universidad de Los Andes, Colombia, and Eduardo Canel, Director, Centre for Research on Latin America and Caribbean, York University, Canada

Appendix B

Biographies of Presenters

Albert Berry is Professor emeritus of Economics at the University of Toronto. His main research interests, with focus on Latin America, are labour markets and income distribution, agrarian structure, the economics of small and medium enterprise, and the impacts of international economic integration. Apart from his academic positions he has worked with the Ford Foundation, the Colombian Planning Commission and the World Bank. He teaches undergraduate courses on “The Political Economy of Development” and “The Economics of Small Enterprises in Developing Countries” and a graduate course on Economic Development.



Megan Bradley is an assistant professor of conflict studies at Saint Paul University in Ottawa, where she is also a member of the Faculty of Graduate and Postdoctoral Studies at the University of Ottawa. She completed her DPhil (PhD) in international relations at St Antony's College, University of Oxford, where her research addressed the justice issues raised by large-scale refugee



repatriation processes. Her first monograph, entitled *Refugee Repatriation: Justice, Responsibility and Redress*, will be published by Cambridge University Press. She is presently undertaking a SSHRC-

supported research project examining the origins, evolution and scope of the normative principle at the root of large-scale refugee repatriation processes: the right of return. Prior to joining Saint Paul University, Megan was a 2008-2009 Sauvé Scholar at McGill University, and served as the 2007-2008 Cadieux-Léger Fellow in the Department of Foreign Affairs and International Trade Canada (DFAIT). Alongside her academic research, Megan has worked with organizations including the International Development Research Centre (IDRC), the Brookings Institution Project on Internal Displacement, and the Office of the United Nations High Commissioner for Refugees in Cairo.

Eduardo Canel is the Director of CERLAC and Associate Professor in the Division of Social Science (International Development Studies and Latin American &



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As a doctoral candidate in Law, **Yadira Castillo** has been researching the impact of the operations of transnational extractive corporations, for example, the experience of oil corporations in prior consultation processes with indigenous communities (ILO 169) through an empirical case study of a Colombian indigenous community in Vichada Department that has been affected by the activities of a Canadian TNC. The work also explores the perspectives of governmental entities and other transnational corporations. Other research focuses on the relationship between Bilateral Investment Treaties (BITs) and human rights. She has also been studying the causes



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