

REGIONAL BRIEFING

Latin America & Caribbean

Business & human rights in Latin America & the Caribbean – A round-up of recent developments

September 2013

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1. Introduction

1.1. About this briefing

This briefing highlights reports from a range of sources about how businesses have impacted human rights, positively and negatively, in Latin America & the Caribbean over the past two years. The briefing refers to most countries in Latin America. Amanda Romero, Business & Human Rights Resource Centre's Latin America & the Caribbean Researcher based in Colombia and Julia Neiva, Brazil and Portuguese-speaking countries Researcher and Representative based in Brazil, provide our coverage of these countries. This is not a comprehensive overview. It flags some major issues, cases, developments and trends. For more details see our [website](#), with sections on over 190 countries, more than 5000 companies, and 150 issues.

1.2. About the Resource Centre

Business & Human Rights Resource Centre, an independent non-profit organization, provides the leading information hub on business & human rights: www.business-humanrights.org. The website tracks reports about the human rights impacts (positive & negative) of over 5000 companies in over 180 countries, and provides guidance tools and resources for all those working in this field. Our researchers are based in Brazil, Colombia, Hong Kong, India, Jordan, Kenya, Lebanon, Senegal, South Africa, Thailand, UK, Ukraine and USA. Mary Robinson, former UN High Commissioner for Human Rights and President of Ireland, is Chair of the Centre's [International Advisory Network](#). Our [Academic Partners](#) comprise 23 leading academic institutions, including five in Latin America. The Resource Centre was recently named by University of Connecticut as recipient of the [2013 Dodd Prize in International Justice and Human Rights](#), a prize established "to honor outstanding individuals and organizations that have made a significant effort to advance the cause of international justice and global human rights". The Centre does not accept funding from companies or company foundations, in order to maintain its independence and to prevent any possible perception of a conflict of interest.

Our mission: To encourage companies to respect and promote human rights, and avoid harm to people. We do this by advancing:

- **Transparency** – pursuing, collecting and disseminating to a global audience information about company conduct, positive and negative;
- **Public accountability** – helping civil society get companies to address concerns; seeking responses and drawing attention to each company's response or failure to respond; and
- **Informed decision-making** – providing the leading business & human rights resource and guidance hub, to assist civil society, companies and others.

We seek responses from companies when concerns are raised by civil society. Advocates thank us for bringing global attention to their concerns and for eliciting responses from companies. Companies thank us for providing them the opportunity to present their responses in full.

Special portals on the Resource Centre's website include:

- ["Getting Started – an introduction to business & human rights"](#)
- ["Tools & Guidance"](#)
- ["UN Guiding Principles on Business and Human Rights"](#)
- ["UN Working Group on business & human rights"](#)
- ["UN Special Representative on business & human rights"](#)
- ["Corporate Legal Accountability"](#)
- ["Business, Conflict & Peace"](#)

- [“Business & Children”](#)
- [“Business & Freedom of Association”](#)
- [“Human rights impacts of oil pollution: US Gulf Coast, Ecuador, Nigeria”](#)

For further details, see the [“About us”](#) section of our website. [Sign up for free Weekly Updates on business & human rights here](#); the Updates contain English, Spanish and French content, with plans to increase other languages over the coming years.

1.3. Company responses in Latin America & the Caribbean

We seek company responses when concerns are raised by civil society and when we find no evidence that they have otherwise responded to the concerns. Many of the responses we have received from companies operating in Latin America & the Caribbean are included in this briefing. This response process encourages companies to publicly address human rights concerns, and provides the public with both the allegations and the company’s comments in full. In some cases this process helps to bring about resolution of the issues. In other cases it has led to dialogue between the company and those raising the concerns. In all cases it has increased transparency.

In the Annex we include a chart listing companies headquartered in Latin America & the Caribbean that, in 2012 and 2013, we invited to respond to concerns raised by civil society and highlighted on our website and/or in our Weekly Updates – indicating the country, issue, and whether or not the company has sent us a response – with a link to the allegations and any response. Since 4 January 2012, the response rate by companies headquartered in Latin America & the Caribbean has been 76.19% (32 responses out of 42 invitations to respond). The overall response rate for companies headquartered in Latin America & the Caribbean since we began seeking responses in 2005 is 72.82% – 75 responses out of 103 invitations to respond. This rate is very similar to our global response rate. The Annex also includes a chart listing companies headquartered outside the region that we have invited to respond to concerns about their human rights impacts in Latin America & the Caribbean, noting which of these companies responded 100% of the time, and which responded 0% of the time - the largest number of firms with a 0% response rate are headquartered in Canada. Finally, the Annex includes a chart listing positive steps relevant to human rights taken between 4 January 2012 and 5 July 2013 by companies headquartered in Latin America & the Caribbean.

In the list below, we indicate the countries in the region where the companies invited to respond to concerns are headquartered and, for each country, the number of responses obtained out of the total number of responses requested (in the period from 4 January 2012 to 7 August 2013):

- Argentina 100% (2 responses obtained out of 2 responses requested)
- Brazil 100% (4 out of 4)
- Chile 100% (1 out of 1)
- Dominican Republic 100% (2 out of 2)
- Guatemala 100% (1 out of 1)
- Nicaragua 100% (2 out of 2)
- Peru 100% (2 out of 2)
- Colombia 83.33% (10 out of 12)
- Mexico 57.14% (8 out of 14)
- Ecuador 0% (0 out of 1)
- Venezuela 0% (0 out of 1)

We have sought other company responses over issues arising in the region as well, but those companies were headquartered outside the region. The numbers above relate only to companies headquartered in Latin America & the Caribbean. Details about all of the company responses we have sought worldwide since February 2005, including from companies operating in Latin America & the Caribbean but headquartered outside the region, can be found [here](#).

We indicate in the individual company sections of our website the response rate of each company that we have invited to respond to an allegation. While a company’s response rate is not a reflection of a

company's actual conduct, and while the quality of responses varies, it is an important indicator of a firm's openness to engaging with human rights concerns being raised by civil society.

We wish to draw particular attention to the following companies' response rates – for the issues that they responded to or did not respond to, see the charts in the Annex.

A. Companies headquartered in Latin America & the Caribbean that have not responded to any of our invitations from 4 January 2012 to 7 August 2013

The following companies headquartered in Latin America & the Caribbean did not respond to civil society concerns when we invited them to do so (in parentheses: the number of responses obtained out of the number of responses requested). This list includes impacts both within and outside Latin America & the Caribbean:

- Capital en Crecimiento (Mexico) (0 responses out of 1 response requested)
- Cemex (Mexico) (0 out of 1)
- Comisión Federal de Electricidad (Mexico) (0 out of 1)
- Ecuacorriente (Ecuador/China) (0 out of 1)
- PDVSA (Venezuela) (0 out of 1)
- Telmex (Mexico) (0 out of 1)
- Vetra Energy (Colombia/USA) (0 out of 1)

B. Companies headquartered in Latin America & the Caribbean with a 100% response rate from 4 January 2012 to 7 August 2013 (re impacts within or outside Latin America & the Caribbean; only includes companies invited to respond more than once)

- Cerrejón (Colombia/Australia/Switzerland/UK): 2 out of 2
- Emgesa (Colombia/Italy): 3 out of 3
- Grupo Pellas (Nicaragua): 2 out of 2 (including one joint response with Nicaragua Sugar Estates)
- Grupo Vicini (Dominican Republic): 2 out of 2
- Minera Real Bonanza/First Majestic (Mexico/Canada): 4 out of 4
- Vale (Brazil): 4 out of 4

1.4. Research missions in Latin America & the Caribbean

As part of our work, the Resource Centre carries out research missions to:

- Gain a clearer picture of what is happening on the ground;
- Build contacts with local NGOs and civil society, to better understand their concerns and explain how the Resource Centre can draw global attention to their concerns;
- Build contacts with local companies and business organizations, to introduce the Resource Centre, explain how we will invite them to respond to human rights concerns, and encourage them to send information about their positive initiatives that promote human rights; and,
- Inform NGOs, companies and others about the resources our website offers, and invite them to sign up for our Weekly Updates.

The Resource Centre has conducted six research missions in Latin America & the Caribbean: to Mexico in November 2007; to Guatemala in June 2011; to Peru and Colombia in September 2011; to Argentina in June 2012; to Mexico in October 2012; to Brazil in July 2013.

2. Key concerns

2.1. Impacts on indigenous and afro-descendant peoples

Latin American & Caribbean indigenous and afro-descendant peoples are particularly vulnerable to businesses' impacts: their territories are usually rich in natural resources; they have been traditionally excluded from decision-making bodies; and most of them are trapped in a cycle of poverty and deficient access to health and education. Indigenous peoples and afro-descendants deserve special protection according to the International Labour Organization's [Convention No. 169](#) and the [UN Declaration on the Rights of Indigenous Peoples](#). The Organization of American States has [drawn attention to the special status of afro-descendants](#); the NGO Minority Rights Group [wrote a letter](#) to the UN Working Group on business & human rights in December 2012 drawing attention to inadequacies in the international business & human rights framework in relation to indigenous peoples.

Over the past decade there has been progress in including ethnic rights in constitutional and legal frameworks that entitle these peoples to certain autonomy in their territories, and progress in requiring states and companies to consult with them about any projects that may affect their livelihoods and culture – most notably in Bolivia, Colombia, Ecuador, and Peru. At the same time, in many countries there are conflicting laws and practices that pose risks to these peoples. The number of reported violent conflicts involving companies, indigenous peoples and afro-descendants has been on the rise in many countries in recent years – often also involving public or private security forces. During 2012 in Peru, [according to the country's human rights Ombudsman](#), there were over 100 outstanding social-environmental conflicts, of which 70% related to the mining sector – most of these involved indigenous peoples.

A [report by James Anaya](#), the [UN Special Rapporteur on the rights of indigenous peoples](#), about his 2012 visit to Argentina includes testimonies from indigenous communities affected by operations of companies such as **Benetton, Incovi, Jumi, Oro Blanco, Piedra de Aguila, Refinor, Repsol, Samic, Seaboard** and others. In June 2013, Anaya received [a call](#) by NGOs to conduct a formal investigation into the human rights impacts of the Barro Blanco dam on the Ngöbe people in Panama; Anaya responded [here](#) (in Spanish). The Special Rapporteur's [annual thematic report](#) addresses issues related to extractive industries, including recommendations on the principle of free, prior and informed consent. The UN Working Group on business & human rights issued [this report](#) on indigenous peoples in August 2013.

We have received many allegations that afro or indigenous leaders have been subject to killings, death threats, forced displacement, arbitrary arrest and intimidation, in relation to their opposition to projects carried out by companies. In June 2012 a woman leader of anti-mining protests demanding free, prior and informed consent for indigenous peoples in Guatemala [suffered an armed attack](#) by unknown people, allegedly connected to **Servicios Mineros de Centroamerica**, a mining firm; the [company issued a statement](#) condemning the incident. The following month, also in Guatemala, two indigenous leaders of the K'iché Peoples Council, that works on indigenous rights and extractive industries, [were murdered](#). In Mexico, in September 2012 an indigenous association, UCIZONI, [denounced threats](#) coming from people supporting **Mareña Renovables** and other companies building a wind energy park in their territories; Mareña Renovables later stated that they [were not going to leave and that they don't like "blackmail"](#) (in Spanish).

Displacement from ancestral lands is another major concern. In February 2012, indigenous Maya in Belize protested against **US Capital Energy** over negative impacts on their community lands [due to seismic activities](#) that the company was conducting and that are reportedly banned by law. In July 2013, the Belize Court of Appeal [re-affirmed indigenous Maya people's rights to collective land ownership, but gave the green light](#) to US Capital Energy to continue oil drilling within the Maya lands. In Colombia, in November 2011 there were claims by indigenous Wayuú that **Cerrejón coal** (part of **Anglo American, BHP Billiton and Glencore Xstrata**), **MPX** (part of **EBX**) and **Pacific Rubiales Energy** had [continued displacing](#) their communities. We invited the companies to respond; [Cerrejón, MPX and Pacific Rubiales](#) responded (in Spanish). In July 2012 an NGO said that **Vale endangers indigenous Awá peoples** in Brazil with plans to expand a controversial railway line, and that the Awá had not been consulted properly; Vale remarked that the "project is still in the planning stage" and that it will consult with indigenous peoples. In Belize in February 2012, afro-descendant Garifuna communities [rejected tourism projects](#) that would have displaced them. In July 2013, Survival

International [issued a petition](#) calling on US firm **Bunge** to stop buying sugar cane produced on ancestral lands of the Guarani tribe in Brazil. It added that the indigenous people had been evicted from their land and now live in appalling conditions. We invited Bunge to respond; response [provided here](#).

In Colombia, a local court ruled in February 2013 [against legal and illegal mining operations](#) in the indigenous Embera territory. In Chile a court ruled in April 2013 to suspend Canadian firm **Barrick Gold's** Pascua Lama project [over alleged harms to water resources](#). Similarly Chilean [judges ruled against Goldcorp's](#) Cerro El Morro project, in May 2012. In Guatemala in July 2013, a court suspended **Tahoe Resources'** production licence over impacts on [indigenous peoples' access to water](#).

Infrastructure projects also affect indigenous peoples. In Brazil, Amazonian indigenous peoples have been fighting for a long time against hydroelectric projects in their territories. One emblematic case is [Belo Monte](#), built by **Consórcio Norte Energia**: the government says the dam would make Brazil more energy self-sufficient; opponents argue that it will flood a vast area of tropical forest, displacing thousands of indigenous people and damaging the environment. The case has gone through [numerous courts](#), the project has been subject to a [suspension by the Inter-American Commission of Human Rights](#), and there have been [allegations of spying on activists](#).

In July 2012, a Latin American “peoples’ tribunal” denounced the operations of Canadian mining firm **Goldcorp** in Honduras, Guatemala and Mexico over negative impacts on health and access to water; we invited the company to respond; [its response is here](#). In Argentina Mapuche [indigenous peoples demonstrated](#) in large numbers in January 2012 against **YPF's** oil projects' expansion into their lands (in Spanish). In Bolivia, indigenous peoples were divided over plans to build a national road and conducted [demonstrations for and against the road in 2011 and 2012; the road is being built by private company Arbol](#) and would allegedly destroy large parts of the National Park Isiboro Sécure, TIPNIS. Opponents of the road complained that they had not been consulted prior to the start of the works; [this article notes](#) that the demonstrations triggered by the road construction were part of wider demands to recognise indigenous peoples' rights over their territories (in Spanish).

2.2. Freedom of association

We have received many reports raising concerns about obstacles faced by employees wanting to unionise. In countries like Guatemala and Colombia, this practice often takes violent forms. One of the notable recent killings was the April 2012 assassination of the [General Secretary of the Colombian Sugar Cane Cutters' Union](#), following large-scale strikes by the cutters. Impunity for abuses against trade unionists in Latin America, and Colombia in particular, remains a major problem. With a further [20 unionists killed in the country in 2012](#), according to the International Trade Union Confederation (ITUC), it does not appear that the situation for trade unionists in Colombia is seeing any marked improvement. In May 2013 we sought a response from Switzerland-based **Nestlé** to an item by the European Centre for Constitutional and Human Rights regarding a [lawsuit](#) (dismissed by the Swiss prosecutor, on the grounds that it was filed too late; the plaintiffs have appealed), which alleged that the company was complicit in the killing of trade unionist Luciano Romero in 2005. In its response Nestlé said it “categorically” rejected all accusations (see further details and the company's full response [here](#)).

In a June 2013 report, the International Labour Organization (ILO) drew the special attention of its Governing Body to the “[serious and urgent](#)” cases of Guatemala, Iran and Venezuela, involving “human life or personal freedom, or new or changing conditions affecting the freedom of action of a trade union movement as a whole”. On 12 February 2012, a Guatemalan trade union leader of a banana company [was killed](#). The murder took place in the midst of a battle being waged by the SITRABI union following the alleged refusal of **Del Monte's** subsidiary **Bandegua** to pay the minimum wage recently set by the government, according to the ITUC.

Abuses are also committed against NGOs and lawyers who defend workers' rights. In Mexico in May 2012 a lawyer from the Worker Support Centre (CAT) was reportedly [kidnapped and tortured](#) for several hours by unknown men as he was on his way to a hearing where CAT was defending the rights of a group of garment workers; his female colleague at CAT received death threats. In Venezuela, some companies allegedly seek to control unions by spying on them, as claimed in a lawsuit by **Venalum's** trade union in [February 2012](#) (in Spanish). Also in Venezuela, in June 2013 workers at

Ferrominera Orinoco managed to have their union recognised after a strike; during the strike, the army [occupied the company's facilities](#) (in Spanish).

As well as abuses against individual trade unionists, unions and labour activists report that companies use a variety of tactics to undermine attempts by workers to unionise. Labour rights activists have identified precarious work as a growing issue and a [major barrier to workers being able to exercise freedom of association](#). In January 2012 Colombian Government labour authorities imposed multi-million dollar fines on palm oil companies that [subcontracted workers via illegal "cooperatives"](#), denying them most basic labour rights, including the right to freedom of association.

2.3. Workplace health & safety

Health & safety abuses in the workplace are a persistent problem in the region, in many sectors. Mexican human rights NGOs recently submitted [the Pasta de Conchos \(mine owned by Grupo México\) case](#) to the Inter-American Commission on Human Rights; more than seven years after a mining accident killed 65 miners, only two bodies have been recovered. A Chilean court ordered the rehearing of a case in 2012 over alleged [metal poisoning that killed Enami-Ventanas workers](#) (in Spanish). In 2013, the solicitor general of the Atacama region in Chile decided [to drop a criminal case](#) against the owners of the San Jose mine where 33 miners were trapped for more than two months in 2010. In 2012 authorities in Colombia initiated investigations after [seven workers died and four more were injured](#) in a construction accident at a site developed by the company **Constructora Gonzalez** (in Spanish).

In August 2011 US-based **Dole Food** announced that the company was going to compensate more than 3000 rural workers [exposed to toxic pesticides](#) in Nicaragua, Costa Rica and Honduras, following a settlement in court. In Nicaragua in January 2013, following workers' [allegations that their kidney and other health problems](#) were a result of chemicals sprayed near their homes in sugar cane plantations owned by Nicaragua firm **Grupo Pellas**, we invited the company to respond; [the response is here](#). In August 2012 **General Motors** Colombian workers ended a hunger strike over lack of compensation for [professional illnesses related to their work](#) in GM's subsidiary **Colmotores**.

In February 2012 in Argentina, the **Cirigliano Group** was investigated after a railway accident in a **Trains of Buenos Aires** train [claimed the lives of 51 and injured many more](#); workers had complained about poor working conditions and poor maintenance work. In Trinidad & Tobago in March 2013, workers protesting against **Petrotrin** and **Inland & Offshore Contractors Limited (IOCL)** said [defective vessels had put their lives at risk](#); IOCL denied the claims.

2.4. Displacement, access to food & water

The rapid expansion of agro-business and the construction of large infrastructure projects are causing forced displacement of rural and urban communities in parts of the region. For instance, in Colombia protests against [alleged negative impacts on access to water](#) by **Emgesa's** (part of **Endesa**, part of **Enel**) "El Quimbo" hydroelectric dam escalated in March 2012. During the clashes that ensued, villagers who protested were [violently removed](#) by security forces; we invited Emgesa to respond and [it did](#) (in Spanish). Also in Colombia, in February 2012 survivors from the paramilitary era and campaigners claimed that **Cementos Argos** had acquired [lands from paramilitaries](#) who had displaced communities; we invited the [company to respond and it did](#). In Guatemala in May 2012, a peasant leader who had refused to sell his land to **Hidro Santa Cruz** (part of **Hidralia Energia**) [was murdered \(two more were injured\)](#), allegedly by staff working for the company. We invited the company to respond and [it did](#) (in Spanish).

In Brazil, [poor communities face evictions](#) due to large construction projects related to the 2014 Football World Cup, which will be held in twelve cities, and the 2016 Summer Olympics, which will take place in Rio de Janeiro. The UN Special Rapporteur on Adequate Housing [warned in 2011](#) about large-scale human rights abuses being committed across Brazil in the name of World Cup and Olympics construction.

Food scarcity and lack of access to water are usually associated with conflicts over land. In Peru in January 2013, more than a dozen peasants [were injured during their protests](#) against **Candente Cooper** mine over access to food and water. Rural communities of San José del Progreso in Mexico

have been targeted by supporters of a Canadian firm **Fortuna Silver** mine; [two leaders were murdered](#) in 2012 (in Spanish). They had opposed the use of the community's drinkable water by the company; we invited the company to respond and [it did](#). Also in 2012, in Honduras, NGOs alleged that palm oil businesspeople supported by private and public security forces [have displaced poor peasants from their lands](#), killed leaders and sexually abused women (in Spanish).

La Platosa mine owned by Canada-headquartered **Excellon Resources** in Mexico has [led to conflicts with neighbouring communities](#) for years over land use issues. In March 2013 a court [ruled that the company should give back](#) 1100 hectares of the community's land (in 2010, after we invited the company to respond, [Excellon stated](#) that their land agreements with local villagers "have been recommended by the Mexican Mining Authority as a model"). In Ecuador, rural communities that opposed construction of the hydroelectric project in Chone were subject to [arbitrary detention and persecution](#) in October 2011; they claimed that the construction of the dam would endanger their access to water and impact their arable lands. In March 2012, Peruvian and Canadian NGOs [criticised the Canadian International Development Agency \(CIDA\)](#) for signing agreements with **Barrick Gold**. They claimed that the company carried out 366 drillings in a wet zone close to five small lakes which provide clean water for some thousands of farmers. In May 2012, Paraguayan civil society organizations rejected a draft law on biosecurity, alleging soy companies are responsible for deepening [conflicts over land access and water contamination](#) (in Spanish).

2.5. Environmental pollution affecting health

The oil industry is a major source of contamination affecting health in Latin America. In February 2012, a large **PDVSA oil spill affected local communities** in eastern Venezuela (in Spanish). In 2012, Argentinean [victims sued 18 oil companies](#) including **Repsol, Pan American** (joint venture of **BP & Bidas**), **Chevron, Total Austral** and **Medanit**, over health impacts attributed to their operations. In March 2012 a Brazilian court barred 17 executives from **Chevron** and **Transocean** from leaving the country, pending criminal charges related to [an oil spill in the Atlantic](#); Chevron said it will abide by the court's decision and will defend the company and its employees. In February 2013, a judge [rejected the criminal charges](#) against Chevron and the executives (in Portuguese). Oil spills seem to be more frequent in the Amazon jungle than anywhere else in the region. An April 2012 report by Peru's energy and mines regulator (OSINERGMIN) said Peru [has thousands of abandoned oil wells that continue to pollute their surroundings](#). Many of these are in the Amazon, placing "people's basic rights at risk" according to the Ombudsman's Office; it added that **Petroperú**, the state-owned oil firm, "is a long way from concluding all of the work needed".

For references to two important lawsuits against **Chevron** and **Occidental Petroleum** for environmental pollution affecting health in the Amazon in Ecuador and Peru respectively, see the "Lawsuits" section of this briefing, section 4.1 below.

Pollution affecting health also occurs in other sectors. For instance, in January 2012, in the midst of a national debate over the creation of environmental tribunals in El Salvador, [prosecution against two companies](#) advanced in court (in Spanish). **Baterias Record** (electronics) and **Agrojell** (pesticides) allegedly dumped toxic pollutants causing harm to health. In 2012, a Chilean court ordered a criminal investigation against executives at state-owned mining firm **Codelco** over a [chemical leakage](#) that impacted school children (in Spanish). In Argentina, representatives of 33 indigenous communities turned to the Supreme Court in March 2012 to claim their right to be consulted about projects for mining of lithium in Salinas Grandes; they said the prospecting drillings [are causing impacts and endangering the surface salt water and aquifers](#)". In April 2012, **Goldcorp's** shareholders filed a resolution asking the firm to commit to the full costs of [closure of the Marlin mine](#); to do otherwise "puts health of local communities at risk" in Guatemala. We invited the company to respond and [it did so](#). In Peru in September 2012, six children were found [with "unacceptably high levels" of copper and lead](#) after toxic slurry from the **Antamina** mine (joint venture of **BHP Billiton, Xstrata, Teck, Mitsubishi Corporation**) sickened scores of people. A year later, the Antamina consortium was fined for the 2012 toxic spill.

A February 2012 article entitled ["In Peru, one of the world's worst polluters is set to reopen"](#) said that the Doe Run smelter in La Oroya, Peru, could reopen "despite concerns that **Renco Group**, the US company that runs the plant, has largely failed to install the new technology needed to prevent it from again emitting clouds of deadly smoke ". In April 2012 creditors of **Doe Run Peru** (a subsidiary of Renco Group), including the Peruvian Government, [voted to reject the company's restructuring plan](#)

that reportedly would have allowed it to begin operations again without first meeting environmental standards required by Peruvian law. A [2013 Bloomberg article](#) surveyed the history of the Doe Run complex in Peru and its environmental and health impacts. In July 2013 the Peruvian Government announced that it was [temporarily exempting La Oroya](#) and two other polluted cities from stronger air quality standards after two major metals processors said the tighter limits were unworkable, with one of them threatening to shut down the country's main copper refinery. In May 2012, Doe Run Peru had [appointed the organization "Right Business"](#) to help a transition to reopen the smelter (in Spanish). An [August 2013 article](#) said that the La Oroya smelter was seeking bank loans to modernise the facilities with a view to selling the operations.

2.6. Labour rights issues other than health & safety

2.6.1. Forced and "slave" labour

Many rural workers have been and continue to be subject to forced or slave-like work in parts of the region. A [February 2012 study](#) by independent researcher Maria Sjödín says that inspections by Argentinean labour and tax agencies confirmed the existence of forced labour at rural estates hiring seasonal workers. One case cited in the study refers to "working hours [that] were extensive, 11 hours or more Monday to Sunday...[i]f a worker expressed a wish to leave his job, the supervisor would allegedly threaten to dismiss all the members of the team to which the worker belonged"; in another case "the employer was accused of deducting costs for damaged corn plants from the workers' wages on terms not known to the workers...the workers were not allowed to leave the estate before the end of the season". The study also mentions reports of employers at rural agricultural estates retaining the identity documents of employees, or withholding their salaries, to prevent them from leaving. The study says that Brazil has assumed leadership in Latin America in the fight against forced labour, through the Special Mobile Inspection Group composed of inspectors, prosecutors and police; the group investigates complaints of slave labour in situ, frees enslaved workers and prosecutes the owners of the properties. The study adds that the establishment of a similar mechanism in Argentina could "end the situation of impunity which currently prevails for employers in rural areas". In June 2013, the Brazilian Government [updated its "dirty list" of companies using slave-like work](#); it added **DuPont Pioneer** for reportedly keeping 99 workers in "conditions analogous to slavery" in Joviania in 2010 (in English and Portuguese). The government added scores of additional companies to the list, and also removed over 20 firms; the list is updated twice a year.

In June 2013 in Mexico, 275 workers were rescued from the agriculture company **Bioparques de Occidente** by Jalisco state authorities. The authorities [charged five people for human trafficking and illegal detention](#), and said that the workers, mostly migrants, were subject to inhumane working conditions (in Spanish). Forced labour has also reportedly occurred in the textile sector. In April 2013 workshops allegedly supplying Spanish firm **Zara** (part of **Inditex**) were accused by Argentinean authorities of [using forced and child labour](#). Zara said it was surprised by the allegations. In August 2011 Brazilian authorities [investigated and fined Zara over "inhumane" working conditions at two of its suppliers](#); raids on factories in São Paulo found people (most of them migrant Bolivians) working in "stifling, confined spaces for 14 hours a day...in 'degrading' circumstances". Inditex acknowledged the issues and ordered its subcontractors to "immediately regularise" the conditions for all of its workers (in English and Spanish). In December 2011, Zara [signed an agreement](#) with the Brazilian Ministry of Labour to pay compensation (in Portuguese).

2.6.2. Child labour

Child labour is still widespread throughout the region. According to UNICEF's 2013 global [statistics on child labour](#), nearly one out of ten children in Latin America is working. In July 2012, during Mexico's election campaign, [UNICEF called on the government](#) to tackle child labour. In the same month, the International Labour Organization said that [in Peru almost a third of all children and adolescents work](#); they are "poor, and often do dangerous work in mining and construction".

Most of a July 2012 report by Ecuadorian NGOs on alleged negative impacts by the mining operations of Canada-headquartered **Kinross Gold** in the Cordillera del Condor region was focused on [child labour and on its psychosocial impacts on children](#). We invited the company to respond and [it did](#). In the Dominican Republic in February 2012, labour authorities imposed a fine on **Consorcio Duquesa** waste disposal company over its [alleged use of child labour](#) (in Spanish). In April 2012, Paraguayan

[labour authorities investigated allegations of child labour](#) at the **Ypacaraí** stone quarry company (in Spanish). In Argentina in February 2012, official inspectors [found child labour in agribusinesses, and fined Gipsyes](#) winery firm (in Spanish). In the same month in Chile, a Peruvian couple was expelled from the country and a company admonished for [hiring under-15-year-old children](#) for agricultural work (in Spanish).

Child labour is sometimes aggravated by sexual exploitation of children, including in the tourism sector. In June 2011 Jamaican authorities said that over 7000 children were involved in hazardous work, including [prostitution & child slavery](#). In September 2012, the UN Special Rapporteur on child trafficking, prostitution and child pornography said that in Guatemala [many children are still victims of sexual exploitation and forced labour](#).

2.6.3. Discrimination

Age, gender, maternity, racial, sexual orientation, disability, and HIV/AIDS discrimination are common in Latin America. In July 2013 an NGO issued a study saying that in recent years in Mexico work-related age discrimination was on the rise; currently 90% of advertised jobs are [targeted at people under 35 years of age](#) (in Spanish). A recent example of gender discrimination in Argentina: In April 2013 a labour tribunal ordered the private newspaper **La Nación** to pay compensation to a female employee over [harassment and discrimination](#) she had suffered (in Spanish). In June 2011 in Honduras, prosecutors filed a complaint against cleaning company **Higia** after an investigation revealed that the firm [obliged its female workers to conduct frequent pregnancy tests](#) and fired many of them based on the test results (in Spanish).

In July 2012 in Brazil, the company **Santa Rita Indústria de Auto Peças** was ordered by a tribunal to pay compensation to a black worker [who suffered humiliation and racist attacks](#) in the workplace (in Portuguese). In Mexico in August 2013, the airline **Aeromexico** and the advertising company **Catatonía** [apologised for a commercial casting call](#) that said "dark-skinned" people would not be allowed to audition. In Chile in December 2012, authorities fined **Motel Marín 014**, a hotel company, for having refused access to [a lesbian couple; the couple used a new anti-discrimination law in their complaint](#) (in Spanish). In April 2013, the anti-discrimination government agency in Mexico issued a formal complaint against the airline **Aeromar** after it found that the company [requested disabled passengers to "demonstrate that they don't have contagious diseases"](#). In July 2013 an NGO alleged that [several companies in Venezuela conduct secret blood examinations](#) on job applicants and workers; any person found to have HIV reportedly was not hired or was fired (in Spanish).

2.7. Other concerns

Tax avoidance: In February 2012 Revenue Watch and Foro Nacional por Colombia presented a report on extractive firms' [tax avoidance and lack of social investment](#) affecting human rights in Colombia. A May 2013 report by Colombian analysts criticised the royalties and tax system for the mining sector and the related [failure of government and companies to tackle poverty](#) in the zones where companies operate (in Spanish). Experts and activists in Peru [expressed concerns in February 2010](#), saying that "while mining corporations are cashing in on soaring metals prices, they continue to enjoy exemption from royalties and corporate taxes [...] One example of the losses that such contracts represent for government coffers was the 270 million dollars in taxes and royalties that **Antamina** (joint venture of **Xstrata, BHP Billiton, Teck Cominco, Mitsubishi**) will not have to pay this year". A June 2011 [Guardian article said](#) that the world's four largest grain traders (**ADM, Bunge, Cargill** and **Dreyfus**), were accused of large-scale tax evasion in a landmark series of cases brought against them by the Argentinian Government; a March 2013 article [said that the government was still pursuing almost US\\$ 1 billion](#) in unpaid taxes from these grain firms, from two large Argentinean grain firms (**Molinos** and **Nidera**), and from smaller firms. A related article in the same month added that the firms had [repeatedly denied](#) any wrongdoing and said that they abide by the local laws (in Spanish). For an explanation of the connection between tax avoidance and the infringement of human rights, see the special page of our website entitled "[Tax avoidance - an introduction](#)".

Political lobbying: In June 2012 the Senate in Paraguay impeached the president, Fernando Lugo. The pretext for the impeachment was a dispute over an area that landless peasants claim as their own and had occupied for a while; the Senate blamed the president for a violent clash that year that led to the deaths of 11 peasants and six police. The Mercosur trade bloc suspended Paraguay over the

impeachment, calling it a [“parliamentary coup”](#). Some reports claimed that the agricultural lobby backed the impeachment in order to clear the way for further expansion of the biotechnology industry, mentioning specifically the alleged involvement of US-based **Monsanto**. We invited the company to respond; [more details and Monsanto’s response are here](#).

Truth Commission: The Brazilian National Truth Commission is researching human rights violations committed from 1946 until 1988, which includes the military dictatorship period. [This document](#) by the Commission from May 2013 says that among other issues, the Commission is investigating the involvement of both public and private companies in the “system of repression linked to the military” (in Portuguese).

3. Positive developments

3.1. Promotion of children’s rights and steps against child labour

In March 2012 UNICEF, Save the Children and United Nations Global Compact launched the [“Children’s Rights and Business Principles”](#). In Latin America, **Telefónica** and **Arcor** have been among the leading companies in the efforts to implement the principles, eradicate child labour and promote children’s rights. Telefónica’s Proniño programme works to eradicate child labour through access to education in [13 countries in the region and according to Telefónica benefits 211,000 children](#) (in Spanish). In October 2012 Telefónica, together with the local UN Global Compact network, launched in Colombia a [guide to assess and monitor business impacts on children](#) (in Spanish). In collaboration with UNICEF, Save the Children and others, Arcor helped develop a manual entitled [“How to work for children? Guide for corporate action from children’s rights”](#), focused on Argentina. Since 2006 Arcor has supported the project [“Business for Children”](#) which develops tools and guidance materials for companies (in Spanish).

Since 2007 the Argentinean Ministry of Labour and Social Security has led an initiative called [“companies network against child labour”](#); by December 2012, 88 companies had adhered to the initiative (in Spanish). In Nicaragua in January 2012, the companies **Banpro Grupo Promerica** and **La Cumplida**, along with the Nicafrance Foundation, joined efforts in [a child labour prevention initiative](#) to provide access to better education for children of coffee plantation workers (in Spanish). In Bolivia in May 2013, 57 companies joined an initiative to eradicate child labour and all forms of discrimination in the [sugar cane industry](#) (in Spanish). In June 2013, 15 companies, including **Grupo El Comercio**, **Holcim**, and **Lafarge**, [joined a public-private alliance](#) in Ecuador to find strategies to eliminate child labour (in Spanish). In Mexico in July 2013, the Secretary of Labour [announced that it will present awards to agriculture companies](#) for their efforts to eradicate child labour (in Spanish). In March 2012 in Colombia, more than 20 Bogotá tourist businesses [signed onto “The Code”](#), a UNICEF-backed initiative that trains employees to spot signs of child prostitution and report them.

In August 2013, UNICEF, Save the Children, Perú 2021, and Empresarios por la Educación (“Businesspeople for Education”), held a two-day seminar in Peru about companies’ impacts on children’s rights. All the seminar’s presentations [are available here](#), including a presentation by Amanda Romero (Business & Human Rights Resource Centre’s Latin America Researcher), and various cases of positive initiatives by extractive companies (in Spanish).

3.2. Labour-related initiatives

In Guatemala in December 2011, **Frito-Lay** (part of **PepsiCo**) was awarded a prize for its inclusion of 45 [hearing impaired people](#) in their factories (in Spanish). In March 2013, six US textile & apparel companies (**47 Brand**, **Life is Good**, **New Balance**, **Nike**, **PVH Corp**, **VF Corporation**) [urged the Peruvian Government to repeal a law](#), stating: “we are...concerned that Decree Law 22342...acts to encourage and condone violations of labor rights and therefore poses an obstacle to the proper application of our codes of conduct...”. In March 2012, **Banco Hipotecario** received a “best practices” certificate in Argentina after it opened a dedicated space in the workplace to allow nursing women to breast-feed their babies (in Spanish). In April 2013, five Mexican companies (**Grand Hotel Tijuana**, **DJ Orthopedics de México**, **Castro-Limón**, **Welch Allyn México** and **Plaza Agua Caliente**) were awarded certificates for their efforts to [provide women equal opportunities in the workplace](#) (in Spanish).

3.3. Human rights policies and training

As of 9 September 2013 there were ten companies headquartered in Latin America (out of a total of 338 companies) included in our [running list of companies with a human rights policy statement](#). These are the companies in that region that we are aware of that have adopted such a statement (if you know of any other such statements please notify us): **Banco do Brasil, Bradesco, Cemex, Cerrejón, Codelco, Ecopetrol, ISA, Isagen, Petrobras and Vale.**

In 2012 and 2013 Colombian energy company **ISA** launched various [human rights training materials](#) aimed at their employees and other stakeholders (in Spanish). In May 2013, **Petrobras** [held a symposium for over 500 employees](#) from across Brazil, among other issues on labour rights, “social dialogue”, and the promotion of human rights; the ILO and John Ruggie, former UN Special Representative on business and human rights, participated (in Portuguese).

3.4. Other initiatives

In September 2012, the Brazilian “Bolsa de Valores Socioambientais” (socio-environmental stock exchange) was [the first social investment "exchange" in the world](#). It operates more like an online crowd-funding platform, and the return is social, not financial. In December 2011 the Mexican stock exchange launched a “[sustainability index](#)” that assesses companies according to their social and environmental performance, including in relation to human rights and climate change issues.

In December 2011, **Pfizer** and **GlaxoSmithKline** [increased sale at low cost of pneumonia vaccine](#) to poor countries through Global Alliance for Vaccines and Immunisation (GAVI). The new deal is to last through 2023; the vaccination program was initially started in 2010 in Nicaragua and rolled out to 15 other countries in Africa and Latin America in 2011.

In May 2012, it was reported that the Mexican cement company **Cemex** undertook a [global affordable housing initiative](#), in collaboration with other partners, which helped provide quality concrete housing to low-income families in developing Latin American countries.

In Brazil, the Ethos Institute created a [working group on business and human rights](#) in 2011; the group shares best business practices, and produces and disseminates tools and materials on human rights. **Alcoa, Banco do Brasil, Bradesco, BP Biocombustíveis, CPFL Energia, Itaú-Unibanco, Mattos Filho Advogados, McDonald’s, Shell, Syngenta, Vale, Walmart and Wilson Sons** are part of the group. In 2012, Ethos Institute launched the “[Business Charter on Human Rights and the Promotion of Decent Work](#)” (in Portuguese).

In February 2012, 13 mining companies in Colombia [signed commitments](#) to promote health and security rights in the workplace, sustainable environmental mining and human rights.

In Brazil in February 2012, the **Banco do Brasil** and the government started to offer [credits with better conditions for disabled people](#) (in Portuguese and Spanish).

A long-running prize in Colombia recognises companies for their contribution to peace-building efforts and steps to help solve the armed conflict. The “Emprender Paz” award [was given in 2012 to four companies](#): **Sodexo**, for its inclusion of former combatants; **CDP El Cuero** and **Guardagolfo**, for their initiatives in support of armed conflict victims; and **Asomucan**, for an initiative to promote development in rural communities affected by conflict (in Spanish).

4. Legal, policy and regulatory developments

4.1. Lawsuits

Argentina & USA: Argentinean courts have recently issued rulings related to the alleged role of companies in crimes committed during the military dictatorship of the 1970s and 1980s. In January 2012 a court ordered that investigations be opened against the owner of **La Veloz del Norte**, a transport company, for his alleged role in the abduction of [12 trade union leaders by military forces](#) (in Spanish); in May 2013 three former **Ford** executives [were indicted for crimes against humanity](#), accused of giving personal details of employees to security forces who hauled two dozen union workers

off the floor of Ford's factory in Buenos Aires to be tortured and interrogated and then sent to military prisons. In April 2013, the US Supreme Court agreed to hear an appeal by **Daimler**; the company was contesting the jurisdiction of California courts to hear a lawsuit alleging that Daimler's Argentine **Mercedes-Benz** unit collaborated with state security forces in torture and killings committed during the dictatorship (full case profile [here](#)).

Brazil: In August 2012 a court ordered **Chevron** and its driller **Transocean** to [halt operations](#) after two oil spills in the Atlantic Ocean. In December 2012 Chevron [agreed to pay 310 million reais to Brazil for the 2011 oil spill](#); an official from Chevron Brazil said the company "admitted guilt for the disaster and made the payment to show that it was prepared to make amends". In April 2013, the National Petroleum Agency (ANP) [said it had approved Chevron's plan to resume production](#) in four wells for a period of 12 months and in two other wells for a period of two months.

Canada & Guatemala: In July 2013 the Superior Court of Ontario ruled that lawsuits against Canadian firm **Hudbay Minerals** alleging complicity in shootings, murder and gang-rape at its former mine in Guatemala can proceed to trial. It is the first time that a Canadian court will hear a case for alleged human rights abuses involving a Canadian mining company abroad (full case profile [here](#)).

Chile: In March 2012, 10 former executives of the cellulose company **CMPC** [were summoned to testify](#) in the context of a judicial inquiry into the role of the company in the detention, killing and "disappearance" of 19 people, mainly workers of the factory, during the military dictatorship. This inquiry is continuing.

Chile: In July 2013, an appeals court [ratified the halting](#) of **Barrick Gold's** Pascua Lama mining project; indigenous communities had expressed concerns about the impact of the project over their water sources (in Spanish).

Colombia & Switzerland: For a lawsuit against Nestlé, see section 2.2 of this paper, "Freedom of association", above.

Colombia & USA: A lawsuit in US courts over the alleged involvement of US-based **Drummond** in the killing of three union leaders in Colombia was dismissed in July 2013. In February 2013 a former contractor for Drummond was sentenced by a Colombian court to 38 years in prison for organising the killing of two labour leaders in 2001. The judge ordered prosecutors to investigate Drummond's president and several former employees to determine whether they had a role in the killings (full case profile [here](#)).

Colombia & USA: NGOs and victims have filed various lawsuits in US courts against US-based **Chiquita** claiming that payments the company made to paramilitaries and other armed groups aided and abetted their human rights crimes. Chiquita has admitted paying paramilitaries from 1997 to 2004. In March 2012, [a US federal district court allowed some of the cases to proceed](#); in the same month a Colombian public prosecutor closed his investigation of Chiquita executives over the same allegations [saying that the company was blackmailed](#) (in Spanish). In April 2013, Chiquita sued the US Securities and Exchange Commission to prevent disclosure of documents relating to payments to a Colombian paramilitary group (full case profile [here](#)).

Costa Rica: The Constitutional Court [ratified a lower court's decision to annul](#) Canadian firm **Infinito Gold's** permission to mine for gold. Campaigners have said the mine could cause severe environmental damages, including harming water sources (in Spanish).

Ecuador: In January 2012 an appeals court ratified a US \$18 billion judgment against **Chevron** over oil pollution allegedly affecting the health of thousands of people. Seeking to enforce the judgment, the plaintiffs filed actions in 2012 targeting Chevron's assets in Canada, Brazil, and Argentina. In February 2013, after a claim filed by Chevron, the Permanent Court of Arbitration in The Hague ruled that Ecuador had not complied with the tribunal's previous order to suspend enforcement of the Ecuadorian judgment (full case profile [here](#)).

Ecuador & USA: In February 2013, a US judge dismissed a lawsuit against the US private military and security company **DynCorp International**. The company had been sued over injuries purportedly caused by anti-narcotic herbicides sprayed at the Colombia-Ecuador border; the judge said the plaintiffs

- approximately 2000 Ecuadorians bringing negligence and tort claims for acute and chronic injuries related to herbicide exposure - could not prove a causal link between DynCorp's aerial spraying and their health problems and destruction of crops and livestock (full case profile [here](#)). [This](#) legal commentator said that the judge rejected the testimony of a key expert witness.

Organization of American States (OAS): Although the human rights bodies of OAS, the Inter-American Commission and Court of Human Rights, do not have jurisdiction over companies, in June 2012 the Inter-American Court [issued a ruling declaring that Ecuador](#) had breached its international responsibilities for failing to consult the Sarayaku indigenous community when it granted oil concessions to **Compañía General de Combustibles** (part of **Southern Cross**) in the community's ancestral lands. The court held that the duty to consult with indigenous communities about measures that will affect them directly has become a general principle of international law.

Peru & UK: A lawsuit in UK court against **Monterrico Metals** (based in UK and Hong Kong), alleging the company was involved in the detention, torture and sexual assault of Peruvians who were protesting the development of the Río Blanco copper mine in Peru, was settled in June 2011. In a related lawsuit filed in Peruvian courts, 14 policemen were charged with torture in May 2012 (full case profile [here](#)). Prosecutors in Peru [continue criminal investigations](#) against executives and workers of **Río Blanco Copper S.A.** (part of **Monterrico Metals**) and **Forza** (a private security company) (in Spanish).

Peru & USA: In April 2013, the US Supreme Court [declined to review a federal appeals court's ruling](#) that Peruvian villagers and an NGO can sue US firm **Occidental Petroleum** over its alleged pollution of the Amazon rainforest. The plaintiffs can now pursue their case; they allege that because of the contamination, they have developed health problems, including cancer, kidney illness and serious skin conditions.

4.2. Laws & regulatory action

4.2.1. Anti-discrimination laws

Some countries in the region have introduced legislation to combat discrimination in the workplace and to foster workplace inclusion of disadvantaged people. In December 2012, Peru approved a law requiring every company with over 50 employees to have [at least 3% disabled people](#) in their workforce; the main business association said the norm would create "unnecessary job posts and raise costs for companies" (in Spanish). Chile approved in 2012 [a general anti-discrimination law](#), prompted by the death of a man in a homophobic attack; the law has been cited in cases against companies – see example in section 2.6.3 of this paper, "Discrimination", above (in Spanish). In October 2012 Mexico passed a controversial new labour law, which [includes provisions against discrimination](#) on the basis of gender, ethnic or national origin, age, sexual orientation, and other criteria. Critics said the bill erodes other labour rights (in Spanish).

4.2.2. Consent and consultation

[ILO Convention 169](#) recognises the right of indigenous and tribal peoples to be consulted in any "legislative or administrative measures which may affect them directly" (article 6), and imposes a requirement to obtain their free and informed consent "where the relocation of these peoples is considered necessary as an exceptional measure" (article 16). [Only 22 countries in the world have ratified Convention 169; 15 of them are from Latin America & the Caribbean](#). Some countries have sought to integrate the Convention into national law. Peru approved a law in August 2011 that complies with the commitments of Convention 169 and [guarantees indigenous peoples' right to free, prior and informed consultation](#) in relation to any projects affecting them and their lands; [Ecuador's proposed law on free, prior and informed consultation](#), debated in 2012, refers to Convention 169 (in Spanish).

Other countries have been trying to grapple with the issue of consent and consultation for communities affected by business projects. In May 2012 the Colombian Constitutional Court ruled that **Muriel Mining Company** could not undertake any work in indigenous territories because the indigenous people [had not been properly consulted](#); an appeals court in Brazil [suspended construction of the Belo Monte](#) dam in August 2012 for the same reason; and a Mexican Court ordered [the proper consultation](#)

[of indigenous communities](#) that may be impacted by companies designing and building the Acueducto Independencia water pipeline (in Spanish).

In September 2012, for the first time the Mexican National Human Rights Commission analysed the human rights responsibilities of a private company in an official recommendation. The document is addressed to various state and national authorities; it relates to a mining project by Canada-headquartered **Minera Real Bonanza/First Majestic** and the rights of the indigenous Wixárika. The Commission placed [special emphasis on the indigenous peoples' right of consultation](#). We invited the company to respond to the recommendation and to an academic opinion on it and [it did](#) (in Spanish).

4.2.3. Other regulations and nationalizations

In Peru the Constitutional Tribunal had to intervene in August 2012 to [uphold a decree prohibiting the use of dredges and requiring environmental certifications](#) from small and artisanal mining companies; several mining companies had sued to remove the decree.

Recent nationalizations were heavily criticised by some companies. The president of Spanish firm **Repsol** said it would challenge “an illegal and unjustifiable act” in international courts, after the Argentinean president [decided to re-nationalise YPF](#), which had been sold to Repsol in 1998. The Argentinean president blamed Repsol for low production levels and low royalties, adding that this deprived the country of essential income for social programmes. The Bolivian president decided to nationalise the **Glencore Colquiri** mine after [violent clashes over its control](#) broke out between rival miners in June 2012.

4.3. Bilateral agreements and international tribunals

In August 2012 in Colombia, [TECSA afro-descendant port workers on strike were attacked by anti-riot police, injuring some; NGOs and a union said](#) “despite the commitments of the [US-Colombia] Labor Action Plan, working conditions for Afro-Colombian workers remain especially abysmal...exposing the failure of Colombian authorities to live up to promises in [the Plan]”; the Plan is part of the trade agreement between the two countries. Companies have submitted cases to international arbitration, alleging governments' lack of compliance with trade agreements. In 2007 Canada-headquartered **Pacific Rim** sued El Salvador at the World Bank's Centre for the Settlement of Investment Dispute (ICSID) over the country's [suspension of mining licences](#) over social and environmental concerns; the case is still on-going (in Spanish). US-based **Philip Morris** sued Uruguay in May 2011 at ICSID over the [government's measures to restrict tobacco sales and marketing](#) in order to protect public health.

5. The international business & human rights framework

On 16 June 2011, the [United Nations Human Rights Council endorsed by consensus a new set of Guiding Principles on Business and Human Rights](#) designed to “provide – for the first time – a global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity”. The [Guiding Principles](#) are the product of six years of research led by the UN Special Representative on business and human rights, Professor John Ruggie, involving consultations, site visits and feedback from governments, companies, business associations, civil society, affected individuals and others around the world. John Ruggie conducted two regional consultations in Latin America, in 2007 in Colombia and in 2009 in Argentina ([more information here](#)).

Back in 2005, Argentina was one of the governments that co-sponsored the resolution of the UN Human Rights Council authorising John Ruggie's mandate, along with Russia, India, Nigeria and Norway. The 2011 UN Human Rights Council resolution [was introduced by Argentina and Norway, and co-sponsored](#) by many countries including these from Latin America: Brazil, Colombia, Guatemala, Mexico and Peru.

The 2011 UN Human Rights Council resolution also established a [UN Working Group on the issue of human rights and transnational corporations and other business enterprises](#) with a three-year mandate. Among its roles is “to promote the effective and comprehensive dissemination and implementation of the Guiding Principles”. In April 2012, the UN Working Group released its [first report](#) to the Human Rights Council, and in March 2013 it released its [second report](#). The Working Group issued a report on

indigenous peoples in August 2013; see section 2.1 of this paper, “Impacts on indigenous and afro-descendant peoples”, above.

The expert on the UN Working Group from Latin America is [Alexandra Guáqueta](#), a Colombian national. Dr. Guáqueta co-chaired the secretariat of the Colombian Voluntary Principles on Security and Human Rights in-country process; worked at Occidental Petroleum and Cerrejón on human rights and social standards; worked at the NGO Fundación Ideas para la Paz where she created the “Business and Conflict” programme; and is currently a lecturer in international relations at Flinders University in Australia.

The UN Working Group’s first regional forum on business & human rights was held in Latin America, in the city of Medellín, Colombia, on 28-30 August 2013. Further information is [here](#). Some NGOs issued [this statement](#) in August 2013 in advance of the forum (in Spanish).

The first annual [United Nations Forum on Business and Human Rights](#) was held on 3-5 December 2012 in Geneva. The main focus of the Forum was to discuss trends and challenges in the implementation of the UN Guiding Principles. At one of the Forum’s sessions, co-organised by Business & Human Rights Resource Centre and SOMO, civil society groups discussed challenges they face in advancing the Guiding Principles and identified opportunities for affected stakeholders – this session included an intervention by [Juana Kweitel \(starts at 5:52 on the video\)](#) from Conectas Human Rights, a Brazil-based NGO. The next annual Forum will be held 2-4 December 2013 in Geneva; for more information and registration [click here](#).

6. Looking ahead

6.1. Issues

Some Latin American countries are planning to start or continue to expand controversial mining and oil projects. Following a decision by an international court in 2012 that settled a maritime borders dispute between Nicaragua and Colombia, Nicaragua has announced its intention [to start oil exploration in the Caribbean sea](#), despite fears from Colombian [fishermen that this could threaten their livelihoods](#) (in Spanish). In August 2013 the Ecuador Government [abandoned a unique plan to persuade rich countries to pay Ecuador not to drill for oil](#) in the pristine Yasuní national park in the Amazon rainforest; environmentalists had hailed the initiative, saying it was setting a precedent in the fight against global warming. Ecuador will now allow oil explorations in Yasuní, which is home to two indigenous tribes living in voluntary isolation; national indigenous organizations announced mass protests.

Since 2011, Peruvian authorities and mining firms have been pushing to expand a **Yanacocha** (joint venture of **Compañía de Minas Buenaventura** and **Newmont**) mine. The project, Conga, has been mired by protests and criticisms over its alleged negative social and environmental impacts. Following various demonstrations against Conga in 2011, 2012 and 2013, some of which ended with security forces [opening fire on unarmed protesters, wounding up to 18 people](#) (2011) and with [“police repression” and scores of detainees according to this journalist](#) (2012), civil society organizations [filed a complaint in March 2013 at the Inter-American Commission on Human Rights](#) accusing Peru’s Government of rights abuses during protests against Conga. According to a [Reuters report](#), farmers reportedly fear that Conga will cause contamination and ruin water sources, and US company Newmont has said that it is building water reservoirs for the community and that the mining project itself “won’t go forward without local support”.

In July 2013, the independent complaints office (CAO) of the International Finance Corporation (IFC) announced that it [will carry out an audit](#) of the IFC’s decision to purchase shares of Canada-headquartered **Eco Oro Minerals** (previously **Greystar Resources**), which wants to develop a gold mine in Colombia. CAO’s decision follows a complaint by the NGO “Committee for the Defense of Water and Páramo of Santurbán” with support from two other NGOs; the CAO’s investigation will focus on whether the evaluation of social and environmental risks was adequate, particularly considering the long-term risks.

Honduras is considering draft laws to promote development, “reconvert the public debt”, and regulate the mining sector. The country’s Geology and Mining Institute [has suspended the approval of mining concessions until the bills are approved](#); critics say approval would multiply the number of mining

licences in the country, despite civil society concerns over alleged harm to health and the environment - particularly in relation to open-pit mines (in Spanish).

Other sectors around which potential conflicts are likely to erupt in the near- and medium-term future are agribusiness, logging, fishing, hydroelectric, chemicals, and construction, as governments compete to attract more foreign investment. The one common denominator among all these sectors (and mining and oil) is their heavy demand for natural resources – mostly land and water. Increasingly, rural communities, including peasants, indigenous peoples and afro-descendants are better organised and are joining efforts with other civil society groups to demand better regulation of the private sector's conduct and greater accountability for abuses.

The UN Guiding Principles are increasingly being used by these groups, and will likely also be increasingly used by governments in the region ([click here for examples of implementation](#) of the UN Guiding Principles by governments, companies, NGOs and others).

One initiative to highlight implementation by governments in the region is the effort by the Colombian Government [to insert the UN Guiding Principles and a chapter on business & human rights](#) into the country's national human rights action plan (in Spanish).

Another important issue that needs more attention in Latin America & the Caribbean (and in other regions) is referred to as “corporate capture of government”. This includes the concern that many government agencies repeatedly hire people from the industries they are supposed to regulate, and companies hire people from regulatory agencies. [This article](#) refers to this “revolving door” concern (in Spanish).

Despite the challenges in the region, there are also signs of some positive steps in the business & human rights field. These include: an increasing willingness by some companies in the region to engage with civil society on human rights issues (as reflected by an increasing number of company responses on our site to civil society reports raising concerns about their operations); a growing number of countries in the region making commitments to initiatives such as the Voluntary Principles on Security & Human Rights, the UN Guiding Principles, and the Extractive Industries Transparency Initiative; and some national human rights institutions promoting debates and research on business & human rights.

6.2. The Resource Centre's plans for the region

Business & Human Rights Resource Centre will continue to deepen its coverage of issues discussed in this briefing. We will continue to bring the concerns of local advocates to an international audience, ask companies to respond to allegations against them, and provide examples of positive initiatives by companies.

Furthermore, to expand the numbers of people in the region who can access relevant information on business & human rights, we have recently increased, and will continue to increase, our provision of Spanish and Portuguese translations of key English documents, including materials on how to implement the UN Guiding Principles. We have translated a number of tools about the Guiding Principles into Spanish that are available in the [Spanish sections of our UN Guiding Principles Portal](#).

Over the coming years, we will also have full navigation of our website in Spanish and eventually in Portuguese; and we will make our Weekly Update newsletters available in separate language versions, including Spanish and Portuguese.

In the coming years, funding permitting, we hope to conduct further research missions in Latin America & the Caribbean, including to Brazil, Honduras and Paraguay. In Honduras and Paraguay, we will likely focus on violent conflicts between companies and communities disputing land, workplace health & safety, and extractive industries' impacts on health and access to food and water. In Brazil we will focus on environmental pollution by companies affecting people's health, workplace health & safety, impacts by projects related to mega-sport events, and labour rights issues.

In 2014 we plan to recruit a Mexico & Central America Researcher & Representative, based in Mexico, to strengthen our work in that region.

Our [Corporate Legal Accountability Portal](#) will profile more lawsuits relating to corporate abuses in Latin America & the Caribbean in Spanish and Portuguese. We already provide full lawsuit profiles in Spanish of eight cases [here](#). In June 2013 we issued our first [Corporate Legal Accountability Quarterly Bulletin in Spanish](#), and intend to continue producing a bulletin in Spanish every three months. Over the coming years, we will also issue this quarterly bulletin in Portuguese.

Our other thematic projects will also feature new cases from and about the region:

- [Business, Conflict & Peace](#) (which includes a section on Colombia)
- [Business & Children](#)
- [UN Guiding Principles](#) and [UN Working Group on business & human rights](#)
- [Business & Freedom of Association](#) (which now includes sections on Argentina, Brazil, Chile, Colombia, Dominican Republic, Guatemala, Guyana, Honduras, Mexico, Panama, Venezuela)

7. Follow our work on Latin America & the Caribbean

You can follow our coverage by region and country here:

<http://www.business-humanrights.org/Categories/RegionsCountries/Americas>

If you would like to receive our free Weekly Updates, the sign-up form is accessible here:

http://www.business-humanrights.org/weekly_update_signup

Please do not hesitate to get in touch with any questions or suggestions of material for our website:

- Amanda Romero, Latin America & Caribbean Researcher & Representative (based in Colombia): romero@business-humanrights.org;
- Julia Mello Neiva, Brazil, Portugal & Portuguese-speaking Africa Researcher & Representative (based in Brazil): neiva@business-humanrights.org.

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