The CAFTA Labor Standards Debate:

Critical to the CAFTA Countries and the United States

By

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Why do the Core Labor Standards Matter in the CAFTA?

There are five basic labor standards recognized as "fundamental" by all countries that are members of the International Labor Organization (ILO), meaning virtually every country in the world. The five fundamental labor standards are the right to organize/associate, the right to bargain collectively, prohibition on child labor, prohibition on discrimination in employment, and prohibition on forced labor.

The most consequential and contested of the five fundamental standards are the rights of workers to associate and to bargain collectively. While the other core labor standards have real significance in many settings in various nations, the rights to organize and to bargain collectively, as was true when the U.S. was a developing economy, are what most impact the dynamic and economic structure within a workplace and within the broader society at large.

In the context of the five countries included in the CAFTA (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua), the ability to associate and negotiate collectively for wages and working conditions is vital in four respects.

<u>First, these rights are critical to help the workers and their families in the CAFTA countries move out of poverty and up the economic ladder</u>. The focus of manufacturing today in the CAFTA countries is in the apparel and textile industry maquilas. There are around 750,000 workers in that sector in the five nations. What characterizes the conditions of work in the plants is not use of child labor in manufacturing (though there is in some agricultural sectors), nor unbearable physical conditions (unlike American sweatshops of 100 years ago, the plants there are rather new, usually well lighted, and the air is not stifling), but <u>total subservience</u> of the workers.

As I saw in my trip to the region last Spring, the vast majority of the maquila workers are young women, aged 18-25, many with one or more young children, and the sole source of income for their families. The workers sit emotionless and motionless except for the necessary movement of limbs, hour after hour, with no apparent communication with each other and no interaction with visitors to the plant. Average pay in the maquilas – 75 cents/hour, $1/hour if paid for piece work – placed workers below the poverty level <u>in their own country</u>.

Due to significant harassment, intimidation, and other efforts by employers, not a single worker among the hundreds of thousands of maquila workers in the countries I visited was covered by a collectively-negotiated contract.[1]

The dynamic within the maquilas today is built on a total imbalance in relationships between employer and employee. The vast majority of workers are particularly vulnerable, with overriding fear that for them losing a job means an end to the sole source of income for themselves and their children. Unless workers join together and can speak up for themselves, unless they can have a role in the work place beyond a robotic one, even completely unfettered access to the U.S. market is not going to alleviate poverty within these nations. For workers to be able to break the cycle of poverty for themselves and for their children's future, they need to have the ability to join together, to participate, to have some empowerment to improve their economic status and aspire to join a middle class in their nation.

Second, the ability of workers to associate and contract collectively, assisting their climb out of poverty and into a middle class, is critical not only for themselves but for their nations. It is vital for the economic development and the social dynamics in these countries. Latin America has the widest levels of inequality in the world; the Central American countries are amongst the worst in Latin America. The level of inequality has increased since the1980s. On average, over 40 percent of national income in Central America is controlled by the richest 10 percent of the population, while the poorest 10 percent hold only 1 percent of national income. Almost 50 percent of the population in El Salvador lives below that country's poverty line; 60 percent in Guatemala, 67 percent in Nicaragua, and almost 80 percent in Honduras. This inequality is not just an academic matter; the sharp inequalities in these nations have led in the recent past to "class warfare" in a very literal sense.

As workers are able to bargain for a bigger piece of the pie, they will be able to claim a higher share of the nation's income. This will help the Central American countries to develop larger middle classes, so decidedly needed in these societies.

Third, helping to improve labor standards in export industries in the Central American countries will be good for firms and workers in the United States. They will not have to compete with companies from Central America that gain a competitive advantage by suppressing their employees. Indeed, it would send a powerful message to workers in the United States concerned about globalization that the United States will not accept trade agreements that will allow a race to the bottom in labor standards. American workers will not support trade agreements that allow advantages through suppression of workers.

Fourth, helping the Central American countries to develop and expand their middle classes will be good economically for the United States as a nation. Our trade agreements are

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[1]Since my visit, apparently one factory has concluded a collective bargaining agreement with its workers. This agreement – at a factory that I visited and later criticized publicly – was concluded only after significant pressure from the government.

not only about being able to buy goods more cheaply from abroad. In order to maximize the gains from expanded trade, people in the countries with which we have trade agreements must be able to afford U.S. goods. Countries with over half or three-fourths of their populations under the poverty line are not going to be able to afford to purchase significant amounts of U.S. goods and services.

There is a further mutual interest in incorporating into the CAFTA an enforceable obligation to respect core labor standards. As quotas on trade in apparel and textiles end among WTO members in January 2005, there is increasing concern about how smaller developing nations will be able to compete with exports from Asia, especially China. If CAFTA is done right, there is the potential to hammer out a more fully integrated Caribbean Basin apparel and textile market that can effectively compete with other producers. One of the CAFTA countries' comparative advantages could be assurances to brand names and consumers that CAFTA products are being produced in compliance with basic, internationally-recognized labor standards.

Laws and Practices in Central America Do Not Meet the Five Basic International Labor Standards

The labor standards issue is particularly salient in the CAFTA countries. The rights to associate and to bargain collectively are not realities in the Central American nations – neither in law nor in practice.

Despite claims to the contrary from the United States Trade Representative (USTR), the CAFTA countries' labor laws deviate significantly from the minimum international standards, as confirmed by numerous reports by the ILO, the U.S. Government (see, for example www.state.gov/g/drl/rls/hrrpt/2002/c8698.htm, scroll down to labor section), and numerous independent monitoring groups. CAFTA countries' laws do not protect workers who have been fired, blacklisted, or physically threatened for trying to organize. Their laws often impede the ability of workers to strike (*e.g.*, by allowing management participation in the vote, by requiring extremely high majorities, by requiring prior government approval, by creating a threat of civil and criminal penalties against workers).

Further, there is long and often egregious history in Central American countries of non-enforcement of their inadequate laws, detailed in part in a recent report by Human Rights Watch (see www.hrw.org/reports/2003/elsalvador1203/). Insiders within these countries agree. For example, the Prosecutor for the Defense of Human Rights, an independent government post appointed by the conservative government in El Salvador, has explained to me:

> In the private sector an anti-union culture persists in great measure and for many years, employers have generated a climate that does not contribute to the promotion of worker organization in their workplaces. There are many violations of labor rights in this sector, and in some specific areas, such as in the textile assembly industry, they reach disturbing levels. ...The Ministry of Labor and Social Welfare has not demonstrated a real will to

guarantee in practice the rights of workers, either individually or collectively. There is a very loud clamor that the authorities of that Ministry do not make their best efforts to adequately check working conditions in businesses, and, in addition, they tolerate and promote an anti-union culture in the country. *(A full translation of the Prosecutor's comments is available from my office.)*

The culture of worker suppression in Central America can turn violent. In recent years, labor leaders in Central America have been beaten with bats, kidnaped at gunpoint, and forced to flee the country.

The Bush Approach is a Step Backwards, Not Forwards

Unfortunately, the Bush Administration included in the CAFTA a provision for countries only "to enforce your own labor laws." This approach – which may make sense when a country's laws already reflect the five basic internationally-recognized standards and the country has a history of respect for these standards (as was the case in the Chile and Singapore FTAs, which I supported) – is <u>not</u> credible in the context of the significant deficiencies in law and practice within the CAFTA countries. It will lock in the existing problems among the CAFTA countries, and promote a race to the bottom in trade with the United States.

Moreover, the Bush Administration "enforce your own laws" standard is a <u>step back</u> from almost twenty years of U.S. trade policy. Under U.S. trade preferences programs that have existed for almost twenty years, U.S. trading partners are required to make progress in improving their labor standards. A failure to do so can and has resulted in sanctions from the United States – including against some of the CAFTA countries. The CAFTA will replace the existing trade preference program with a standard that is <u>weaker</u> than what currently exists in U.S. law.

In order to realize the potential of expanded trade and to lead to the beneficial effects described above, the CAFTA must include a fully enforceable commitment for each country to adopt and enforce the five basic labor standards. Such a commitment, with provisions for a phase-in period, positive incentives, and a substantially expanded multi-year commitment of technical assistance, is necessary to ensuring that the promise of trade liberalization brought about by CAFTA – increased incomes and reduced poverty – will be realized in all nations involved.