

USLEAP

Spring 2015

Fighting for worker justice in the global economy

Dear Friends of USLEAP@ILRF,

I am really excited to share this newsletter with you. Several projects are beginning to bear fruit at an incredibly opportune time.

We have been taking a close look at the complaints filed under the Dominican Republic-Central America Free Trade Agreement (CAFTA-DR). Lessons learned from the AFL-CIO case on Honduras are summarized below and in our last newsletter we shared a policy brief analyzing the Guatemala case. Building on that learning, we embarked on research with trade union partners in Peru to prepare a complaint under the Peru Free Trade Agreement, which will effectively test the more advanced labor clauses in that agreement and, we hope, spur legislative changes to protect Peruvian workers from the abuse of repeated short-term contracts. All of this work is further helping feed our advocacy to stop the fast-track proposal for the Trans Pacific Partnership (TPP), which is our lead story.

Parallel to this, the 2015 Labor Rights Defenders Awards will feature Senator Sherrod Brown (D-Ohio) for his visionary leadership advocating for workers' rights in the U.S. and globally. Senator Brown has opposed legislation to fast-track TPP negotiations, which would limit transparency and debate around the agreement. Please join us on June 3rd to honor Senator Brown and farmworker organizers from the U.S. and Malawi (register online at www.laborrights.org/2015awards).

In all our work on FTAs, ILRF has documented that the best leverage for improving labor rights protections among our trading partners is before an agreement is signed. Not only is that a more effective negotiating strategy than fast-track, it's also worth the wait. If our goal is to sell more products to our trading partners, then we need their workers to make a decent living and prosper, which can't happen without better labor law enforcement.

Personally, the whole idea of fast-track is outrageous. I got my start working in Mexico on the simultaneous fights for transparency around NAFTA and electoral democracy. At the time, Mexican groups looked to Northern allies to share drafts of the agreement because they had no access to them. Today we find ourselves as much in the dark as our Mexican allies were 22 years ago when they were still fighting for the most basic level of democratic governance!

We know that many of you have been mobilizing in your communities to fight fast-track. If you haven't yet called your Congresspeople to let them know how you feel about fast-track and the TPP, please do so today!

In solidarity,



Judy Gearhart
Executive Director

ILRF and USLEAP welcome COLSIBA's Adela Torres to Washington, D.C.

Join us for two events on June 3rd that bring together and celebrate labor activists worldwide!

Hasta La Victoria! Farm Worker Justice in Global Supply Chains

June 3, 2015 | 9:00am – 2:00pm

National Education Association

1201 16th Street NW, Washington, DC 20036

Hear from Adela Torres, the Coordinator of Women and Labor at COLSIBA (Coordinating Body of Latin-American Banana and Agro-industrial Unions), on an panel of experienced agricultural labor leaders and rights experts, exploring the challenges of farm work in the globalized economy and sharing innovations in increasing farmworker rights. The conference will also do deep dive on tobacco, a particularly toxic and exploitative crop affecting Central American migrants in the U.S. and migrant farmworkers in Malawi. Congresswoman Marcy Kaptur, who has visited workers in the fields of North Carolina, will keynote. Registration is free. For more information and to RSVP, please visit: www.laborrights.org/2015conference.

2015 Labor Rights Defenders Awards

June 3, 2015 | 6:00pm – 8:30pm

National Education Association

1201 16th Street NW, Washington, DC 20036

Please join us to honor our 2015 Labor Rights Defenders: Senator Sherrod Brown, the Farm Labor Organizing Committee, and the Tobacco and Allied Workers Union of Malawi! From fighting for safe and just working conditions to demanding corporate accountability, these trailblazers have tirelessly elevated the voices of workers here and abroad. Come celebrate with policy leaders, labor activists and a diverse group of internationalists at our evening reception! Tickets can be purchased at: www.laborrights.org/2015tickets.

Even if you can't make it to either event, you can still support ILRF and USLEAP at these upcoming events by making a donation at www.laborrights.org/2015cantattend.



Fast Track, the TPP & worker rights in Latin America

The long anticipated political battle over fast-track and the Trans Pacific Partnership (TPP) is in full swing, with the Obama Administration and its allies in Congress aggressively marketing the measures as good for business and workers.

USLEAP and ILRF have joined a coalition of over 2000 labor, environmental, family farmer, and faith organizations in signing a letter opposing fast-track as an undemocratic tool that has been used to shove unbalanced trade deals (including NAFTA and CAFTA-DR) through Congress without sufficient public scrutiny or debate.

The Obama Administration is touting the TPP, a proposed mega trade deal involving the United States and 11 different countries, as a “21st century” trade agreement that contains strong and enforceable labor standards.

But if history is any guide, labor rights advocates should remain deeply skeptical of any such claims.

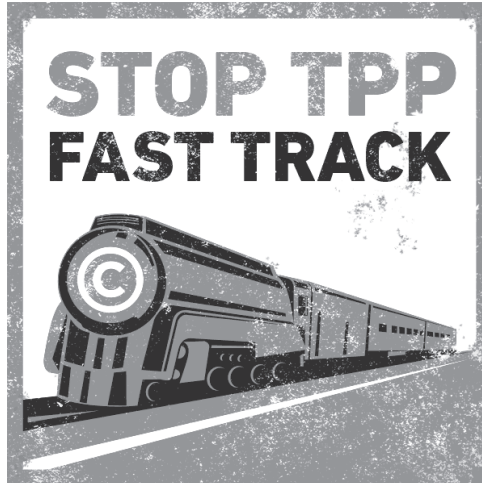
How FTAs have let workers down

In 2005, during Congressional debate over DR-CAFTA, the Bush Administration touted the agreement’s enforceable labor chapter as a key reason why members of Congress could be sure that Guatemala, Honduras, and other Central American countries would honor their promise to enforce their own labor laws.

In 2008, this commitment was put to the test when the AFL-CIO and Guatemalan unions filed a complaint under DR-CAFTA that documented the Guatemalan government’s systematic failure to enforce its labor laws. Based on our research, the U.S. government’s review of the complaint has been characterized by delays and an apparent lack of political will to sanction the government of Guatemala. Over six years later, the complaint is still pending and Guatemalan workers are no closer to enjoying their basic

labor rights at work.

Unfortunately, the chronic delays associated with the Guatemala complaint appear to be the rule instead of the exception. In 2014, a U.S. Government Accountability Office (GAO) report found major weaknesses in the U.S. government’s monitoring



and enforcement of labor standards in free trade agreements, particularly in failing to investigate complaints in a timely manner. The GAO review concluded that the labor standards in FTAs have not led to meaningful improvements in working conditions overseas.

The TPP and Latin America

The dismal performance of FTA labor complaint mechanisms to date should embolden policymakers to insist that potential trade partners address serious labor rights violations before joining the TPP, not after. This is especially true given the severity of the labor rights abuses occurring in two prominent TPP members, Mexico and Peru.

Despite clear statements of concern by the ILO and other human rights bodies, Mexican labor law continues to allow the use of so-called “protection contracts” (collective bargaining

agreements signed between an employer and an employer-dominated union, often without the knowledge of the workers), greatly undermining freedom of association and democratic collective bargaining. In thousands of workplaces across Mexico, workers are governed by CBAs which they have never ratified or, in some cases, ever seen. Unfortunately, labor reforms passed in late 2012 – 19 years after NAFTA was signed – extended the use of protection contracts and expanded the type of work that can be subcontracted, and created additional barriers to exercising the right to strike.

Peru maintains several “special” labor regimes which allow employers to hire workers on temporary, renewable contracts, effectively undermining their right to organize. In its textile and garment export industry, tens of thousands of workers have been working for years on a series of short-term contracts, producing clothing for major brands like GAP, Abercrombie & Fitch, and New Balance. Employers in this sector routinely discriminate against union members by refusing to renew their short-term contracts, a practice reflected by poverty wages and low rates of union membership. In the agro-export sector, which exports large quantities of avocado, peppers, and asparagus to the U.S., workers are not only subject to short-term contracts, but also a law that pays them less than the national minimum wage and denies them social security and health benefits.

These are not minor compliance issues; rather, they are systematic abuses of fundamental labor rights that will place these countries severely out of compliance with the TPP labor chapter on day one.

Everything we know about the TPP suggests the agreement is badly flawed and deserves more public scrutiny, not less. As it stands, the agreement needs to be carefully reviewed and debated, not rubber stamped via “fast track.”

USLEAP, Peruvian unions to file FTA complaint

After months of research and coordination with union partners in Peru, USLEAP is on the verge of filing a complaint alleging violations of the labor chapter of the U.S.-Peru trade promotion agreement.

The complaint will focus on two of Peru's notorious "special labor regimes," which allow workers in the garment, textile, and agro-export sectors to be employed indefinitely on short-term contracts and provided with fewer benefits and protections than workers under the general labor code.

Peru's non-traditional export law allows tens of thousands of workers in the garment, textile, agro-export, and other "non-traditional" export sectors to be employed on an indefinite series of short-term contracts, some as short as 15 or 30 days. Peruvian garment and textile companies, many of whom produce for U.S. brands like Nike,

New Balance, and Abercrombie & Fitch, routinely discriminate against trade unionists by firing them under the pretext of not renewing their short-term contracts due to "economic circumstances."

In Peru's booming agricultural export industry, over 200,000 workers receive sub-standard benefits and protections under the Agriculture Sector Promotion Law, including a compensation package below the minimum wage, half the normal vacation days, and fewer protections from arbitrary dismissal. Under this law, workers toil 12 to 18 hours a day in the fields planting and harvesting asparagus, peppers, and other products for export to the United States, earning an average of just \$5 per day. Meanwhile, the large agribusiness firms that dominate this sector have grown enormously profitable, exporting over \$4 billion

last year alone.

The complaint will provide the first test of the so-called "May 10th" labor standard, which requires both parties not only to enforce their own labor laws, but to adopt and maintain labor laws consistent with the rights contained in the ILO's 1998 Declaration. It will also be the first FTA complaint filed by ILRF or USLEAP, breaking new ground in our use of trade policy to promote international labor rights.

We are particularly pleased that all four union federations in Peru will be supporting the complaint. Moreover, this complaint was something Stephen Coats had been pushing to make happen. He and ILRF's Policy and Legal Director, Eric Gottwald, traveled to Peru in 2012 to discuss the central issues of the complaint with trade unions and other allies.

Three years into the Honduras CAFTA complaint

Nearly three years after receiving a CAFTA labor complaint against the government of Honduras, the U.S. Department of Labor has finally released a report, finding that Honduras is failing to implement its labor laws related to freedom of association, child labor, and acceptable conditions of work.

Under the provisions of CAFTA, the U.S. government generally responds to complaints and issues a report on findings within six months. However, it took the Department of Labor an additional 30 months to investigate and confirm the allegations contained in the complaint filed in 2012 by the AFL-CIO and Honduran labor unions. The delay is indicative of the administrative and resource challenges for the DOL when managing a large, multi-issue complaint; challenges that will likely increase if the TPP moves forward.

The report found labor law violations in almost all of the operating

businesses identified in the original complaint and left DOL investigators with "serious concerns regarding the government of Honduras' enforcement of its labor laws in response to evidence of such violations."

Particular attention was given to the failures of the Honduran labor inspectorate: in some cases, labor inspectors simply failed to show up when called to investigate a reported labor abuse. In other cases, inspectors found violations, but did nothing to ensure that the employer change practices or pay fines as stipulated by Honduran law.



The report recommended government to government consultations and the development and implementation by the government of Honduras of a "monitoring and action plan." If Honduras does not take sufficient action, the U.S. government has the option to resort to arbitration under CAFTA's dispute settlement process.

Highlights of recent events

On **March 16 and 17**, USLEAP Program Coordinator Eric Gottwald attended the annual meeting of EURO-BAN, a coalition of European NGOs and trade unions working to for labor justice in banana supply chains. He discussed USLEAP's ongoing work to support Guatemalan banana unions (Guatemala is now the largest supplier of bananas to the U.S. market) in their efforts to organize workers on the southern Pacific coast, where low wages and standards threaten to

undermine gains made in the north. He also participated in joint planning exercises with UK NGO Banana Link, Oxfam-Germany, and COLSIBA, focused on which U.S. and EU retailers are sourcing bananas for national producers who do not respect the right to organize.

On **April 23**, Gottwald participated on a panel at Pomona College on the past and future of the banana industry in Latin America, entitled "Banana Wars." He spoke on changes

in the global banana market and how consumers can push U.S. retailers to source from plantations that respect workers' right to organize. Fellow panelists addressed topics ranging from the devastating impact that the Chiquita lawsuit brought by the United States at the WTO has had on small banana farmers in the Caribbean to the tragic history of coups and human rights violations supported by U.S. foreign policy in the 1950s.

Seeking applicants for the Stephen Coats Memorial Fellowship

The Stephen Coats Memorial Fellowship is a one year fellowship to promote workers' rights in Latin America and build transnational support for worker organizers in the region.

Experience required:

This position requires knowledge of international labor rights and the challenges related to their application in Latin America. An ideal candidate will have worked with a labor union and/or a small, fast-paced NGO, and is an independent, innovative and driven individual. Applicant must be fluent in Spanish, possess strong writing skills, and the ability to work effectively in diverse coalitions. The position is available with a preferred start date in June 2015.

Fellow responsibilities include:

Campaign Engagement & Fundraising

- Work directly with union and NGO partners in Latin America to challenge labor rights abuses in selected strategic industries, including bananas, palm oil, and apparel;

- Design and implement a campaign for U.S. brands and supermarkets to uphold banana workers' rights in their supply chains;
- Travel to the region to conduct research and strengthen ILRF's relationship with key allies;
- Engage and grow the USLEAP program's supporter base via email communications, fundraising mailings, website updates and engagement, and the creation and mailing of semi-annual newsletters and other communications; and
- Assist with grant proposal writing and reporting for Latin American funding opportunities.

Legal and Policy Responsibilities

- Assist ILRF legal and policy staff to prepare various non-judicial complaints against governments and corporations who violate or are complicit in the violation of workers' fundamental rights;
- Monitor the performance of the social auditing industry on enforcing labor rights in the region, including publicizing

the certification of union-busting companies as "sustainable" producers; and

- Represent ILRF in various coalitions promoting labor and human rights in Latin America.

Qualifications:

- One year's travel and/or work experience in Latin America is strongly recommended.
- Demonstrated ability to work well under pressure and organize work streams.
- Social media and technology savvy to lead engagement with program supporters.
- Ability to multi-task and work effectively within coalitions.
- Fluency in Spanish, written and oral.
- Bachelor's degree required and graduate degree preferred.

Salary commensurate with experience; excellent benefits. Email cover letter, resume, and a sample of policy-related writing or a copy of a report to employment@ilrf.org by June 8.

USLEAP c/o
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Photo of a Rainforest Action Network action, courtesy of www.stopfasttrack.com.

