



working together for social and environmental justice in trade policy

## CAFTA AND HUMAN RIGHTS

### WHAT IS CAFTA?

The Central American Free Trade Agreement (CAFTA) is a regional agreement between the U.S. and five Central American countries: Guatemala, El Salvador, Honduras, Nicaragua, and Costa Rica. The Dominican Republic was “docked” onto the agreement in March 2004. CAFTA is expected to be brought before Congress sometime in 2005, although it is as yet unclear when.

#### ◆ WHY IS TRADE A HUMAN RIGHTS ISSUE?

Corporate-led free trade agreements like CAFTA enable big business to scan the globe for the lowest possible wage at the expense of human rights, pitting workers against one another in a race to the bottom. The CAFTA agreement provides no effective mechanism for conditioning trade access on meeting basic human rights standards or for preventing countries from abusing human rights in an effort to attract investment. Furthermore, if CAFTA were passed by Congress it would expand economic human rights violations by pushing rural populations into poverty and jeopardizing access to medicines and essential services for the poor.

#### ◆ WORKER’S RIGHTS PROTECTIONS ABSENT IN CAFTA

Human rights organizations in both the U.S. and Central America have been vocal in their criticisms of CAFTA. Worker’s rights in Central America are far below international standards and workers there are often plagued by discrimination and abuse. The CAFTA model is deeply flawed in its design as it allows substandard and un-enforced labor laws to be accepted as the standard. Instead of conditioning trade benefits on compliance with international workers rights standards, the CAFTA agreement has no meaningful protections for workers. CAFTA ignores standards set by the International Labor Organization (ILO) and instead, only provides for action to be taken in the case of a country’s repeated failure to enforce its existing domestic laws, regardless of how inadequate these laws may be. In addition, this provision has substantial loopholes for non-enforcement so that it would be extremely difficult to take action when countries fail to enforce their labor laws in an effort to attract investment. What’s more, even if a case were successfully made against this type of action, allowable penalties are significantly weaker than those allowed for enforcing CAFTA’s commercial provisions.

#### ◆ WORKER’S RIGHTS ABUSES ENDEMIC IN CENTRAL AMERICA

This policy is especially inadequate given labor rights conditions in the region. According to Human Rights Watch, the Ministry of Labor in El Salvador violates its own inspection procedures, ignores the anti-union conduct of employers, and impedes workers’ right to freedom of association. The report finds that the Ministry fails to uphold labor laws, and that these laws contain countless loopholes allowing employers to violate worker’s rights without consequence.<sup>i</sup> Unfortunately, these violations are not unique to El Salvador, rather they are endemic to the region where attacks on labor organizers in countries like Guatemala have at the most extreme level included torture and murder.<sup>ii</sup> CAFTA would undermine working conditions in both the U.S. and the Central American region by ignoring enforcement of worker’s human rights and encouraging “competition” among countries with faulty labor standards in a veritable “race to the bottom”.

#### ◆ SWEATSHOP CONDITIONS AND VIOLATIONS OF WOMEN’S RIGHTS

Export Processing Zones (or EPZs) where *maquila* factories operate are already prevalent throughout Central America and would expand dramatically under CAFTA. EPZs are areas where goods can be imported and assembled for export without normal duties, and are known for their human rights abuses in what are often sweatshop factory conditions. Most of the clothing produced in the region already takes

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place in EPZ where foreign companies hire mostly women aged 15-25 to provide cheap labor under poor working conditions.<sup>iii</sup>

Women and girls working in the maquiladora sector in Guatemala, though theoretically protected under the law, encounter persistent discrimination. Guatemalan maquiladoras, many of which are suppliers for well-known South Korean and U.S.-based corporations, discriminate against women workers in a number of ways—including requiring women to undergo pregnancy tests as a condition of employment; denying, limiting, or conditioning maternity benefits; denying reproductive health care to pregnant workers; and, firing pregnant women.<sup>iv</sup>

#### ◆ **THREATENING ECONOMIC HUMAN RIGHTS AND RURAL POVERTY**

Though each of the five CAFTA countries is unique, they are all developing economies and most are faced with the enormity and complexity of confronting significant poverty levels. Rural areas in particular, present challenges to sustainable development where 60% of Central America's poor reside and where small-scale producers rely on highly volatile agricultural markets. In Guatemala and Nicaragua, agriculture employs 60 and 44 percent of the economically active population, respectively.<sup>v</sup> For small-scale producers, agriculture remains central to life and livelihood, and trade agreements like CAFTA, employed without safeguards for small farmers or essential foodstuffs, would make rural populations extremely vulnerable to increased poverty and malnutrition.

#### ◆ **RESTRICTING ACCESS TO MEDICINES**

This agreement would lock participating countries into overly restrictive intellectual property protections for big pharmaceutical companies. Under CAFTA, countries would be forced to extend pharmaceutical patent terms beyond the 20 years required in World Trade Organization (WTO) rules, prevent the marketing of generic medicines if a patented version of the product is registered, and restrict the use of original pharmaceutical test data for the registration of generic medicines, a restriction referred to as "data exclusivity."<sup>vi</sup> One analysis of such patent rules conducted in Costa Rica revealed that the new policies could increase the cost of medicine by as much as 800%.<sup>vii</sup>

#### ◆ **ERODING ESSENTIAL PUBLIC SERVICES**

Services that help meet peoples' right to food, education, health and basic utilities should be exempt from trade rules. Currently, however, domestic regulations on essential services could be considered "barriers to trade" under the CAFTA agreement and open to challenges by multinational corporations. CAFTA could also require governments to bid out for certain services, essentially privatizing much needed public services, resulting in prohibitive price increases, reduced access and compromised quality. The loss of governments' ability to provide accessible essential services would severely impact the most vulnerable in our society, including the poor, children, and the elderly. Women would also be impacted disproportionately as they are often primary care givers and rely heavily on public services.

### **STOPPING CAFTA**

The good news is that the CAFTA agreement has yet to be passed and it can be stopped. We can defeat CAFTA in Congress with education and organization. To learn more about the CTC campaign against CAFTA visit [www.citizenstrade.org](http://www.citizenstrade.org) or contact the office directly at (202) 778-3320.

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<sup>i</sup> Human Rights Watch, *Deliberate Indifference*, December 4, 2003.

<sup>ii</sup> Human Rights Watch, *Guatemala: Human Rights Overview*, January 2004, p 3. Available at <http://hrw.org/english/docs/2004/01/21/guatem6985.htm#4>

<sup>iii</sup> Center of Concern, *The Gender Impacts of CAFTA*, February 2004, p.2.

<sup>iv</sup> Human Rights Watch, *Guatemala: Human Rights Overview*, January 2004, p 3. Available at <http://hrw.org/english/docs/2004/01/21/guatem6985.htm#4>

<sup>v</sup> World Bank, *Country at a Glance*, Available at <http://www.worldbank.org>.

<sup>vi</sup> Doctors Without Borders, *CAFTA provisions Restrict Access to Medicines*, February 2004. Available at <http://www.doctorswithoutborders.org/news/ftaa.shtml>.

<sup>vii</sup> Moreno, R. *The Free Trade Agreement between the United States and Central America: Economic and Social Impacts*, December 2003 p. 118.

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