

# The Latest in a Broken Record of Broken Promises

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**A**s negotiations for the mega 12-country Trans-Pacific Partnership (TPP) trade agreement enter a critical stage, supporters are making bigger and bigger promises about its purported benefits. We have heard all these promises before in support of previous free trade agreements (FTAs). A review of the actual impacts of these FTAs proves that these promises are worthless. In fact, trade agreements have failed to deliver on promises to create good U.S. jobs, trade surpluses, improved workers' and human rights, and a cleaner and more sustainable environment. There is nothing in the TPP—or in the contentions of its proponents—to show that it will be different than the previous record of broken promises. Indeed, the TPP will be worse because it expands and extends the failed policies of past trade agreements to a region that accounts for 38% of total world economic activity.

We should look at the facts and not fall for the same litany of broken promises. We do not need any more free trade deals that accelerate a race to the bottom. Instead, we need fair trade deals that create a race to the top where we actually benefit from more and better jobs, an improved quality of life and a strengthening of rights.

The following report includes a brief overview of some of the major broken promises made in support of past FTAs and provides five case studies illustrating the specific broken promises made in relation to labor rights associated with the trade agreements with Mexico, Colombia, Honduras, Guatemala and Bahrain.

### Broken Promises for Jobs

One of the central arguments made by proponents is that the TPP will create thousands of U.S. jobs. The promise of jobs is trotted out every time a trade bill is considered. However, the reality is that these FTAs have resulted in a net loss of millions of U.S. jobs.

■ President Clinton promised that NAFTA would “create 200,000 jobs in this country by 1995 alone.” But, the U.S. actually experienced a net loss of almost 700,000 jobs to Mexico.<sup>1</sup>

■ President Obama claimed that the U.S.-Korea Free Trade Agreement, which took effect in 2012, would support “70,000 American jobs from increased goods exports alone.” But the U.S. has already lost nearly 60,000 jobs to Korea in just two years.<sup>2</sup>

■ President Clinton promised that allowing China to join the World Trade Organization in 2001 would create thousands of jobs. Yet, the U.S. has experienced a net loss of 3.2 million jobs.<sup>3</sup>

## **Broken Promises for Trade Surpluses**

Supporters routinely promise that FTAs will boost exports, reduce our trade deficits and lead us into prosperity. These promises often focus solely on exports and ignore the job-killing, wage-shrinking effect of imports. In reality, our FTAs have increased imports (which destroy U.S. jobs) significantly more than any increase in exports. As a result, our trade deficits have increased dramatically.<sup>4</sup>

■ In 1993, the year before NAFTA went into effect, the United States had a \$1.6 billion trade surplus in goods with Mexico; by 1995, just one year after NAFTA went into effect, we had a deficit of \$15.8 billion. In 2014, the deficit with Mexico was \$53.8 billion.

■ In 2001, when China was admitted to the WTO, the U.S. had a trade deficit in goods with China of \$83.1 billion. By 2014, this deficit had ballooned to \$342.6 billion.

■ By March 2014, just two years after the U.S.-Korea FTA took effect, our trade deficit in goods with South Korea increased from \$14.6 billion to \$22.6 billion – an increase of \$8 billion or 55 percent.

## **Broken Promises for Improved Human Rights and Labor Standards**

U.S. Trade Representative (USTR) Ambassador Michael Froman claimed that the TPP would “improve adherence to labor rights and working conditions in Vietnam.” This is very similar to promises made, and broken, in previous FTA negotiations. A more detailed analysis of the major FTAs that supposedly addressed labor rights follows in the next section. These examples prove that any promises made in support of the TPP and its purported positive impact on rights in Vietnam should not be accepted.

■ The NAFTA side agreements on labor standards have failed to improve labor standards and working conditions for workers both in the U.S. and Mexico. Worsening conditions and eroded standards have been documented by Human Rights Watch, Amnesty International and the U.S. Department of State.

■ The failure of the Colombia Labor Action Plan (LAP) of 2011 to improve labor rights and reduce violence against labor leaders has been verified by Amnesty International, Human Rights Watch and even the U.S. State Department. In August 2013, hundreds of thousands of Colombians took to the streets to protest a number of issues including the U.S.-Colombia FTA, high fuel prices, and the neglect of rural areas.

■ During CAFTA negotiations in 2005, President Bush said, “... CAFTA... means good jobs and higher labor standards for their workers.” Yet, worsening conditions and standards have been documented by Human Rights Watch, Amnesty International and the U.S. Department of State.

■ In May 2004, the USTR reassured America that Bahrain had reaffirmed “its obligations as members of the International Labor Organization (ILO), and ... that its laws provide for labor standards [would be] consistent with internationally recognized labor rights” as part of FTA negotiations. Yet in April 2011, hundreds of union members and half of the leaders of the General Federation of Bahraini Trade Unions (GFBTU) were dismissed from their jobs for taking part in trade union activities. In a 2013 report, the U.S. Department of State concluded that “Freedom of association was generally not respected... The law does not provide for the right to collective bargaining.”

# Broken Promises of NAFTA's Labor Side Agreements: United States and Mexico

**T**he North American Free Trade Agreement (NAFTA) provided the model for all subsequent U.S. free trade agreements. It was an economic integration agreement between Canada, Mexico and the United States. It was signed in 1993 and went into effect in 1994. At that time, it was the largest U.S. trade agreement. However, the Trans-Pacific Partnership is much larger since it includes 9 other countries in addition to the NAFTA countries. The TPP has been called “NAFTA on Steroids.” The broken promises made in support of NAFTA can serve as a guide to what we can expect from the TPP.

## **The Promise of Improved Labor Rights and Conditions**

President Clinton promised that a labor side agreement would improve labor rights and standards. This side agreement called the North American Agreement on Labor Cooperation included 7 basic objectives, the second of which was “to promote labor principles set forth in the Annex.” The Annex itself contained 11 principles including freedom of association and the right to organize; the right to strike; the prohibition of forced labor; the elimination of employment discrimination; equal pay for women and men; and labor protection for children and young people.

■ **President Clinton:** “In all of trade history, this is the first agreement that ever really got any teeth in environmental standards, any teeth in what another country had to do with its own workers and its own labor standards... There’s never been anything like this before.”<sup>5</sup>

■ **President Clinton:** “We will press for workers in all countries to secure rights that we now take for granted, to organize and earn a decent living... I ask those who opposed NAFTA to work with us to guarantee that the labor and side agreements are enforced.”<sup>6</sup>

■ **USTR Ambassador Kantor:** “The fundamental objectives of the labor and environment agreements are to work cooperatively to improve conditions for labor and the environment throughout North America and to improve national enforcement of national laws relating to labor and the environment. They commit all three nations to fair, open and equitable administrative and judicial processes for the enforcement of environmental and labor laws.”<sup>7</sup>

## **UNITED STATES — The Reality of Worsened Labor Rights and Working Conditions**

Labor rights and working conditions in the U.S. have eroded since the passage of NAFTA. While there are many factors causing this erosion – deregulation, economic policies that accelerated offshoring, attack on voting rights – trade agreements have had a direct impact on this entire process.

### **BROKEN: Freedom of Association and the Right to Collectively Bargain**

The most comprehensive research study of the impact of NAFTA on labor rights in the U.S. reached the following conclusions<sup>8</sup>

- Employers are now twice more likely to use ten or more coercive tactics in their anti-union campaigns than they were before the adoption of NAFTA in 1993.
- Employer threats made during organizing campaigns to close plants if workers voted for a union rose from 29% in the mid-1980s to 50% in the two years following the adoption of NAFTA to 57% during the mid-2000s.
- Actual plant closings where these threats were made following union elections rose from 2% to 15% during this period. While there are many reasons for plant closings, the incentives to off-shore jobs and investment due to trade agreements are clearly important.

### **BROKEN: Prohibition of Child Labor and Minimum Age for Employment**

■ *Human Rights Watch*: “Hundreds of thousands of children work on American farms. The 1938 Fair Labor Standards Act exempts child farmworkers from the minimum age and maximum hour requirements that apply to other working children. As a result, child farmworkers often work 10 or more hours a day and risk pesticide exposure, nicotine poisoning, heat illness, injuries, life-long disabilities, and death. Seventy-five percent of children under 16 who died from work-related injuries in 2012 worked in agriculture. Federal protections that do exist are often not enforced. Congress has still not closed a legal loophole allowing children to do hazardous work in agriculture starting at age 16; hazardous work is prohibited in all other jobs until age 18.”<sup>9</sup>

### **BROKEN: Minimum Employment Standards**

■ *Human Rights Watch*: “Millions of US workers, including parents of infants, are harmed by weak or non-existent laws on paid leave, breastfeeding accommodation, and discrimination against workers with family responsibilities. Inadequate leave contributes to delaying babies’ immunizations, postpartum depression, and other health problems, and causes mothers to stop breastfeeding early.”<sup>10</sup>

### **BROKEN: Protection of Migrant Workers**

■ *Amnesty International*: “The proliferation of state laws targeting migrants put them at increased risk of discrimination and impeded access to education and essential health care services. Increased immigration enforcement along certain stretches of the US-Mexico border continued to push irregular migrants to use particularly dangerous routes through the US desert, resulting in hundreds of deaths. Increased collaboration between local law enforcement and immigration authorities put communities living along the US-Mexico border at risk of racial profiling by state and local law enforcement officials. Irregular migrants who were victims of crime, such as human trafficking and domestic violence, faced a range of barriers to justice.”<sup>11</sup>

# MEXICO — The Reality of Worsened Labor Rights and Working Conditions

## BROKEN: Freedom of Association & the Right to Collectively Bargain

■ *Human Rights Watch*: “Agreements negotiated between management and pro-management unions continue to obstruct legitimate labor-organizing activity. These agreements often restrict workers’ ability to obtain effective representation, undermining their ability to bargain collectively and earn benefits beyond the minimum mandated by Mexican law. Workers who seek to form independent unions risk losing their jobs, as loopholes in labor laws and poor enforcement generally fail to protect them from retaliatory dismissals. In November 2012, Congress passed a far-reaching reform of labor law that imposes onerous preconditions for striking and makes it easier for employers to replace regular employees with workers on short-term contracts supplied by third-party brokers, further undermining fundamental labor rights and protections for workers.”<sup>12</sup>

■ *U.S. Department of State*: In 2012, the Mexican government passed a major labor reform law that “provides workers the right to form and join unions, the right to strike in both the public and private sector and the right to bargain collectively. However the law places several restrictions on these rights... [The Mexican government’s] general failure to enforce labor and other laws left workers without much recourse with regard to violations of freedom of association, working conditions or other problems.... The process for official recognition of unions was politicized, and the government occasionally used the process to reward political allies or punish political opponents.... Few formal strikes occurred in part because of the numerous restrictions on strikes... Protection (company-controlled) unions continued to be a problem in all sectors [which is a] violation of International Labor Organization Convention 87 regarding freedom of association.... Workers were excluded from official unions for trying to organize their colleagues into separate, independent unions.”<sup>13</sup>

## BROKEN: Prohibition of Forced or Compulsory Labor

■ *U.S. Department of State*: “Although the law prohibits all forms of forced or compulsory labor, the government did not effectively enforce such laws. Forced labor persisted in the agricultural and industrial sectors, as well as in the informal sector. Women and children were subjected to domestic servitude. Migrants, including men, women, and children, were the most vulnerable to forced labor.”<sup>14</sup>

## BROKEN: Prohibition of Child Labor and Minimum Age for Employment

■ *U.S. Department of State*: “The December 2012 labor reform law made it a federal crime to employ children under the age of 14... The government did not effectively enforce such prohibitions.”<sup>15</sup>

## BROKEN: Discrimination and Violence against Women and Girls

■ *U.S. Department of State*: “The law provides women the same rights and obligations as men and ‘equal pay for equal work performed in equal jobs, hours of work and conditions of efficiency’... According to the World Economic Forum, women earned 42 percent less than men for comparable work.”<sup>16</sup>

■ *Amnesty International*: “Violence against women and girls, including beatings, rape, abduction and murder, was widespread in many states. Legislation to prevent and punish violence was not enforced effectively and the training of officials on dealing appropriately with gender-based crimes was not adequately monitored to ensure

compliance. Despite commitments to improve investigation of gender-based violence, new police investigation protocols were not introduced during the year and perpetrators usually evaded justice. Protection orders remained inoperative in many states and victims faced continued threats.”<sup>17</sup>

### **BROKEN: Protection of Migrant Workers**

■ *Amnesty International*: “Migrants in transit continued to face abduction, murder and forced recruitment into criminal gangs. Migrant women and children were at particular risk of abuses. Public officials were often suspected of colluding with criminal gangs and committing other abuses against migrants, such as extortion and arbitrary detention. Despite government commitments to combat all abuses against migrants, measures remained ineffective and state governments failed to prevent and punish crimes against migrants.”<sup>18</sup>

# Broken Promises: Colombia and The Labor Action Plan

In April 2011, Colombia and the U.S. negotiated the “Colombian Action Plan related to Labor Rights” in an effort to kick-start the stalled Colombia Free Trade Agreement negotiations. The Colombia FTA was passed by Congress in October 2011. The Labor Action Plan (LAP) required Colombia to adopt and maintain in domestic law five fundamental labor rights included in the ILO Declaration including the right to form and join a union; the right to negotiate collective bargaining agreements; the elimination of all forms of compulsory or forced labor; effective abolition of child labor; and the elimination of employment and occupation discrimination based on gender or race. In addition, the Labor Plan required the Colombian government to effectively enforce fundamental labor rights, as well as minimum wage, hours of work, and occupational safety and health laws; to raise labor complaints to the same level as commercial disputes and to improve labor standards as well as cooperate on matters including labor inspection systems, social assistance programs, occupational safety and health, and labor relations.

## ***The Promise of Improved Labor Rights and Conditions***

■ **President Barack Obama, 2012:** “This agreement is a win for our workers and environment because of the strong protections it has for both, commitments that we are going to fulfill.”<sup>19</sup>

■ **USTR Ambassador Ron Kirk, 2011:** “The Action Plan significantly expands the protection of labor leaders and organizers, bolsters efforts to punish those who perpetrate violence against union members, and strengthens labor laws and their enforcement.”<sup>20</sup>

## ***The Reality of Worsened Labor Rights and Working Conditions***

### **Broken: Freedom of Association and the Right to Collectively Bargaining**

■ **International Trade Union Confederation:** “...figures on violence against trade unionists... vouch for the existence of a human rights crisis not consistent with random and indiscriminant violence. They reflect a policy of extermination, implemented over a sustained period and manifested by the thousands of lives claimed.... Although some progress has been made, the longstanding violence against the Colombian trade union movement continues to plague the country and trade unionists are still being killed, forcibly disappeared and intimidated.”<sup>21</sup>

■ **U.S. Department of State:** “Violence, threats, harassment and other practices against trade unionists continued to affect the exercise of the right to freedom of association and collective bargaining.”<sup>22</sup>

■ **Human Rights Watch:** “The number of trade unionists killed annually... remains high... Threats against trade unionists are widespread: the ENS [National Labor School] reported 539 such cases in 2011, and 255 between January and September 15, 2012... No one has been held accountable for the vast majority of the more than 2,900 trade unionists killings... reported since 1986.”<sup>23</sup>

■ *U.S. Congressional Monitoring Group on Labor Rights in Colombia*: “The right to organize is denied and a lack of justice prevails. Only four percent of workers in Colombia belong to a union, largely due to anti-union violence and fear of reprisals from employers. . . . Death threats continue to be levied against union leaders and workers attempting to organize.”<sup>24</sup>

### **BROKEN: Inspection System for Effective Enforcement of Labor Rights**

■ *U.S. Congressional Monitoring Group on Labor Rights in Colombia*: “A critical provision of the LAP was the implementation of a robust enforcement regime for labor rights through increased inspections and the imposition of fines. [However,] flagrant labor violations often go unpunished with the Government of Colombia failing to collect fines for violations. . . .”<sup>25</sup>

### **BROKEN: Forced or Compulsory Labor**

■ *U.S. Department of State*: “The law prohibits all forms of forced or compulsory labor. The government did not effectively enforce the law in all cases. . . .”<sup>26</sup>

### **BROKEN: Child Labor**

■ *U.S. Department of State*: “Significant incidences of child labor occurred in the production of clay bricks, coal, emeralds, gold, coca and pornography. Commercial sexual exploitation of children also occurred. . . . Prohibitions against children working in mining and construction were largely ignored. . . . There continued to be instances of forced child labor in mines quarries and private homes.”<sup>27</sup>

### **BROKEN: Discrimination Against Women**

■ *U.S. Department of State*: “Although women enjoy the same legal rights as men, serious discrimination against women persisted. Women faced hiring discrimination, were affected disproportionately by unemployment and received salaries that generally were not commensurate with their education and experience.”<sup>28</sup>

### **BROKEN: Acceptable Conditions of Work**

■ *U.S. Department of State*: “While the government’s labor inspectors undertook administrative actions to enforce the minimum wage in the formal sector, the government remained unable to enforce the minimum wage in the informal sector, which. . . . employed approximately 49 percent of workers who earned the minimum wage or less during the year.”<sup>29</sup>



# Broken Promises: CAFTA Labor Chapter and Honduras

In 2005, the Central America Free Trade Agreement (CAFTA) was signed by a number of countries including Honduras. In doing so, Honduras (as well as the other countries) agreed in Article 16.2 that it “shall not fail to effectively enforce its labor laws...” The labor laws specified in the agreement include “the a) right of association; b) the right to organize and bargain collectively; c) a prohibition on the use of any form of forced or compulsory labor; d) a minimum age for the employment of children and the prohibition and elimination of the worst forms of child labor and e) acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health.”<sup>30</sup>

The commitment by Honduras in CAFTA was merely to enforce its own labor laws. Yet, Honduras has failed to achieve even this limited goal as documented by various reports issued by the U.S. Department of State, the U.S. Department of Labor, the International Trade Union Confederation (ITUC), Amnesty International, and Human Rights Watch.

## ***The Promise of Improved Labor Rights and Conditions***

■ **President George W. Bush, 2005:** “To ensure that Central American factories abide by acceptable labor standards, CAFTA insists on stiff fines for violations. And the United States government has committed about \$180 million over five years to ensure that labor laws are enforced. CAFTA is a trade agreement that will be enforced. And we’ve got the money in the budget to do so.”<sup>31</sup>

■ **President George W. Bush, 2005:** “By opening up Central America and the Dominican Republic to U.S. trade and investment, CAFTA will help those countries develop a better life for their citizens... And by helping those economies improve, CAFTA will help the nations strengthen their democracies.”<sup>32</sup>

## ***The Reality of Worsened Labor Rights and Working Conditions***

### **BROKEN: Freedom of Association and the Right to Collective Bargaining**

■ **U.S. Department of State:** “Workers exercised with difficulty the rights to form and join unions and to engage in collective bargaining, and the government failed to enforce applicable laws effectively... Anti-union discrimination continued to be a serious problem... Employers commonly threatened to close unionized factories and harassed or dismissed workers seeking to unionize. They also fired leaders with impunity soon after workers formed unions to prevent the union from functioning... Employers often failed, with impunity, to comply with court orders requiring them to reinstate workers fired for engaging in union activity.”<sup>33</sup>

■ **Coalition of Honduran Unions:** “...employers... violate [the right to freely unionize] through massive lay-offs, blacklists, interference in the creation of workers’ associations ... severe repression, illegal work stoppages; instilling of fear in workers to prevent them from joining the union...”<sup>34</sup>

## **BROKEN: Prohibition of Child Labor and Minimum Age for Employment**

■ *U.S. Department of State*: “The government did not devote adequate resources or inspections to monitor compliance with child labor laws or to prevent or pursue violations. The [Government] did not effectively enforce child labor laws outside the apparel assembly sector, and there were frequent violations. The vast majority of children who worked did so without [Government] permits.”<sup>35</sup>

## **BROKEN: Acceptable Conditions of Work**

■ *U.S. Department of State*: “...the government did not allocate adequate resources for labor inspectors to perform their duties. Authorities did not effectively enforce worker safety standards, particularly in the construction, garment assembly, and agricultural sectors. Employers rarely paid the minimum wage in the agricultural sector and paid it inconsistently in other sectors. Agricultural workers frequently reported being penalized for taking legally established days of rest and holidays.”<sup>36</sup>

■ *Coalition of Honduran Labor Unions*: “The Ministry of Labor and Social Security fails to exercise its power to impose administrative sanctions for labor law breaches... Labor inspectors confine themselves to poorly investigating allegations and remain unable to effectively penalize employers... Widespread discontent exists among workers because labor inspectors demand payment of inspection costs... as a prerequisite to consideration of the workers’ claims... Labor inspectors accept bribes from employers...”<sup>37</sup>

## **BROKEN: Discrimination Against Women**

■ *U.S. Department of State*: “Although the law accords women and men equal rights, including property rights in divorce cases, many women did not fully enjoy such rights. Most employed women worked in lower-status and lower-paid informal occupations, such as domestic service, without legal protections or regulations. Women participated in the labor force at approximately half the rate of men. Employers paid women on average 16 percent less than men for comparable work. Female workers in the textile export industries continued to report that they were required to take pregnancy tests as a condition for employment. Job seekers older than 30, particularly women, faced discrimination based on their age when applying for jobs.”<sup>38</sup>

# Broken Promises: CAFTA Labor Chapter and Guatemala

In 2005, the Central America Free Trade Agreement (CAFTA) was signed by a number of countries including Guatemala. In doing so, Guatemala (as well as the other countries) agreed in Article 16.2 that it “shall not fail to effectively enforce its labor laws...” The labor laws specified in the agreement include “the a) right of association; b) the right to organize and bargain collectively; c) a prohibition on the use of any form of forced or compulsory labor; d) a minimum age for the employment of children and the prohibition and elimination of the worst forms of child labor and e) acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health.”<sup>39</sup>

By signing CAFTA, the Guatemalan government made the commitment to enforce its own labor laws. Yet, Guatemala has failed to achieve even this limited goal as documented by various reports issued by the U.S. Department of State, the U.S. Department of Labor, the International Trade Union Confederation (ITUC), Amnesty International, and Human Rights Watch.

## ***The Promise of Improved Labor Rights and Conditions***

■ **USTR Peter Allegier, 2005:** “Some in Congress are concerned about labor and environment issues. We are too, and that’s why CAFTA includes specific mechanisms for cooperation in the areas of labor and the environment.”<sup>40</sup>

■ **President George W. Bush, 2005:** “...I’m also for fair trade. It’s one thing to advocate free trade; I believe the government has a role to make sure that trade is fair for all of us. In other words, we want people treating us the way we treat them.”<sup>41</sup>

## **BROKEN: Freedom of Association and the Right to Bargain**

■ **U.S. Department of State:** “The government did not effectively enforce legislation on freedom of association, collective bargaining, or antiunion discrimination... Violence and threats against trade unionists and worker activists remained serious problems. Several labor leaders were killed or reported death threats and other acts of intimidation... Procedural hurdles, union formation restrictions, and impunity for employers refusing to receive or ignoring court orders limited freedom of association and collective bargaining.”<sup>42</sup>

■ **International Trade Union Confederation (ITUC):** The ITUC labeled Guatemala as the “most dangerous country in the world for trade unionists.” Since 2007, at least 63 union leaders and members have been murdered.<sup>43</sup> The ITUC also stated, “Freedom of association has long been denied in law and practice in Guatemala... Despite efforts to engage in a constructive dialogue with past governments in order to find solutions to these extremely serious violations, the fact remains that serious violations of the right to freedom of association continue unabated and without meaningful sanction (if any), leading to a situation of near total impunity. Despite many years of promises by successive governments to take the steps necessary to respond to this crisis, the situation has only worsened with each passing year.”<sup>44</sup>

## **BROKEN: Prohibition of Forced or Compulsory Labor**

■ *U.S. Department of State*: “The law prohibits all forms of forced or compulsory labor. The government lacked sufficient resources... to conduct effective and regular inspection or to pursue remediation for forced labor cases. Reports continued that men and women were subjected to forced labor in agriculture and domestic service.”<sup>45</sup>

## **BROKEN: Prohibition of Child Labor and Minimum Age for Employment**

■ *U.S. Department of State*: “Child labor was a widespread problem. The NGO Conrad Project Association of the Cross estimated that the workforce included approximately one million children between the ages of 5 and 17.”<sup>46</sup>

■ *UNICEF*: Despite the minimum age for work being 14, UNICEF reports that in 2012, 24.8% of children aged 5-14 were involved in child labor.<sup>47</sup>

## **BROKEN Acceptable Conditions of Work**

■ *U.S. Department of State*: “Labor inspectors reported uncovering numerous instances of overtime abuses, but effective enforcement was undermined due to inadequate fines by labor courts, labor court inefficiencies, employer refusals to permit labor inspectors to enter facilities or provide access to payroll records and other documentation, and inspectors’ lack of effective follow-up in the face of such refusals. Fines were insufficient to deter violations. Moreover, labor inspectors were not authorized by law to sanction employers but had to send alleged violations to the labor courts, where often inefficient and lengthy court proceedings delayed resolution to cases (in many instances for years). Decisions favorable to workers were rarely enforced....”

“The government sets occupational health and safety standards, which were inadequate, not current for all industries, and poorly enforced.”<sup>48</sup>

## ***CAFTA’s Drawn-Out Adjudication Process to Resolve Formal Labor Complaints***

In 2008, the U.S. AFL-CIO and Guatemalan unions filed a formal complaint with the U.S. Department of Labor’s Office of Trade and Labor Affairs alleging violations of the labor chapter of CAFTA. In the CAFTA agreement, the government of Guatemala committed to “effectively enforce its labor laws” related to the right of association, the right to organize and bargain collectively and acceptable conditions of work.<sup>49</sup> The Government of Guatemala has disregarded this minimal standard since the trade agreement went into effect.

In 2009, the U.S. filed a formal complaint against Guatemala utilizing the CAFTA process. Since the case against Guatemala was suspended a number of times. On September 18, 2014, the U.S. announced the decision to proceed with the case against Guatemala.

In the six years since the complaint was filed, the situation for workers has not improved. As detailed previously, even the U.S. Department of State has documented the inability and/or refusal of the Government of Guatemala to enforce its own laws. Meanwhile, workers are still involved in the struggle to organize without retribution, receive the pay promised for work performed, and improve working conditions – a struggle that is taking place as they are targeted with violence including murder for merely asserting their rights under Guatemalan law.

# Broken Promises: Bahrain Free Trade Agreement

**B**ahrain is an archipelago in the Persian Gulf, east of Saudi Arabia. The economy is heavily dependent on oil production and refining. It has a population of 1.3 million – 55% of which are immigrants, mostly from Asia.<sup>50</sup> The government is called a constitutional monarchy; however, the ruling Khalifa family effectively controls the government, the king is the supreme authority, and family members hold the main political and military posts.<sup>51</sup>

In early 2006, the U.S. Bahrain Free Trade Agreement went into effect. The Labor Chapter (15) specifically required each party to “strive to ensure that such labor principles [as contained in the International Labor Organization’s Declaration on Fundamental Principles and Rights at Work] and internationally recognized labor rights set forth in Article 15.7 are recognized and protected by its law.”<sup>52</sup>

The labor laws specified in Article 15.7 include “the a) right of association; b) the right to organize and bargain collectively; c) a prohibition on the use of any form of forced or compulsory labor; d) labor protections for children and young people, including a minimum age for the employment of children and the prohibition and elimination of the worst forms of child labor and e) acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health.”<sup>53</sup>

In 2011, massive peaceful protests broke out in support of greater democracy and economic justice especially in relation to growing inequality, a lack of decent jobs, plummeting wages, discrimination and eroded standards of living. The major trade unions initiated a general strike. The government responded with a wave of violent repression – especially targeting political and labor activists – and labor law reforms that undermined labor rights.

The significant erosion of labor and human rights in Bahrain has been documented by the U.S. Department of State, Human Rights Watch, the International Trade Union Confederation and Amnesty International

## **BROKEN: Freedom of Association and the Right to Bargain**

■ *U.S. Department of State:* “The constitution and labor code recognize the right to form independent trade unions and the right to strike, with significant restrictions. The law does not provide for the right to collective bargaining... The law prohibits trade unions in the public sector... Freedom of association was generally not respected.”<sup>54</sup>

■ *International Trade Union Confederation on the 2011 Attack on Independent Trade Unions.* “Around this time [the declaration of martial law following pro-democracy protests and a general strike in 2011], prominent trade union leaders and hundreds of rank and file members were fired; some faced criminal prosecution for their role in organising and participating in strikes and/or demonstrations. In demanding the dismissal of workers who went on trade union endorsed strikes or who otherwise demonstrated for political and socio-economic reforms, largely in state owned or invested enterprises, the government actively worked to intimidate and dismantle an independent, democratic and non-sectarian trade union movement.”<sup>55</sup>

■ *International Trade Union Confederation of the 2012 Labor Law Reforms*. “In 2012, the government of Bahrain unilaterally and without notice amended the trade union law in an effort to silence the independent and democratic voice of Bahraini workers. The purpose of these amendments is clear – to further undermine the GFBTU and thereby eliminate an important voice for economic and social reform in Bahrain. The amended articles of the trade union law include: Article 8(1) requires that trade unions be “similar” to form a union federation. This prohibits the formation of multi-sector federations, a move in violation of principles of freedom of association. The ILO Committee on Freedom of Association expressed “deep concern” that the provision was not in conformity with the principles of freedom of association. . . . Article 8(3) allows the Minister of Labour to determine which trade union may represent Bahraini workers in international fora and in national level bargaining. . . . We fear this article could be used to promote government-backed unions that will parrot a defence of the government’s anti-union and anti-democratic policies to the international community.”<sup>56</sup>

### **BROKEN: Prohibition of Forced or Compulsory Labor**

■ *U.S. Department of State*: The law prohibits all forms of forced or compulsory labor except in national emergencies, but the government did not effectively enforce the law. There were reports of forced labor in the construction and service sectors. Foreign workers are covered by labor laws, but enforcement was lax, and cases of debt bondage were common. There were also reports that forced labor practices occurred among domestic workers and others working in the informal sector, most of whom are not protected by labor laws. In July 2012 the government amended the labor law to provide domestic workers the right to see their terms of employment. The government did not undertake specific efforts to enforce laws against forced labor.”<sup>57</sup>

■ *U.S. Central Intelligence Agency*: “Bahrain is a destination country for men and women subjected to forced labor and sex trafficking; unskilled and domestic workers from India, Pakistan, Nepal, Sri Lanka, Bangladesh, Indonesia, Thailand, the Philippines, Ethiopia, Ghana, and Eritrea migrate willingly to Bahrain, but some face conditions of forced labor through the withholding of passports, restrictions on movement, nonpayment, threats, and abuse; many Bahraini labor recruitment agencies and some employers charge foreign workers exorbitant fees that make them vulnerable to forced labor and debt bondage; domestic workers are particularly vulnerable to forced labor and sexual exploitation because they are not protected under labor laws; women from Thailand, the Philippines, Morocco, Jordan, Syria, Lebanon, China, Vietnam, Russia, Ukraine, and Eastern European countries are forced into prostitution in Bahrain.”<sup>58</sup>

### **BROKEN: Rights of Migrant Workers**

■ *Human Rights Watch*: “Approximately 460,000 migrant workers, primarily from Asia, make up 77 percent of Bahrain’s private workforce. Due to shortcomings in Bahrain’s legal and regulatory framework and failure to enforce laws, they endure serious abuses such as unpaid wages, passport confiscation, unsafe housing, excessive work hours, physical abuse, and forced labor. Conditions for domestic workers are of particular concern. A regional Gulf Cooperation Council unified contract for domestic workers, expected to be approved in early 2014, falls short of the minimum standards outlined in the Domestic Workers Convention that the International Labour Organization adopted in 2011.”<sup>59</sup>

### **BROKEN: Discrimination Against Women**

■ *U.S. Department of State*: “Women faced discrimination under the laws. . . Family law is based on sharia as interpreted by Sunnis and Shia. . . Labor laws prohibit discrimination against women, but discrimination against women was systemic, especially in the workplace.”<sup>60</sup>

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## FOOTNOTES

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