COSTA RICA

Costa Rica is known as a model of democracy and peace in Central America, a region which is more often marked by violence and dictatorships. Unfortunately, when it comes to worker rights, Costa Rica’s record is marred by violations both in law and practice. The results of its outdated and restrictive Labor Code are clear. Only 5% of the private sector is unionized, there are few collective bargaining agreements and there are virtually no unions in the country’s six free trade zones and industrial parks.

For many years, the democratic labor confederations in Costa Rica have reported worker rights violations which have been substantiated by the AFL-CIO. These complaints have also been ratified by democratic labor organizations in the Western Hemisphere and throughout the world through the International Confederation of Free Trade Unions (ICFTU). The ICFTU filed a case before the International Labor Organization (ILO) in 1988 supporting the Costa Rican confederations’ claims of freedom of association violations. The ILO issued a report in June 1991 essentially confirming the complaints.

During a May 1991 meeting with AFL-CIO representatives, Costa Rica’s Vice Minister of Labor admitted, "It’s absolutely impossible to form a union in the private sector." At that time, the AFL-CIO believed that Costa Rica was in violation of U.S. law governing the Generalized System of Preferences (GSP). However, because of a commitment made at the highest level of the Costa Rican Government to implement significant changes in the labor code and its enforcement, it was decided not to petition the U.S. Trade Representative for termination of Costa Rica’s GSP trading privileges at that time.

During a follow-up visit in 1993, another representative of the Ministry of Labor acknowledged that little had changed despite government intentions to pursue reform. It is evident that the Costa Rican Government, including its national legislature and court system, has not by itself taken the necessary steps to afford Costa Rican workers full protection for internationally recognized worker rights, as required by U.S. trade law. Therefore, the AFL-CIO calls for termination of Costa Rica’s trading privileges under the Generalized System of Preferences (GSP) and the Caribbean Basin Initiative (CBI).

Termination of these trade benefits will result in imposition of tariffs on approximately $327 million in Costa Rican products now being sold duty free in the U.S. market. Such products include fish, flowers, seeds and plants, paper and other wood products, pottery and china, electrical and mechanical parts. Unfortunately, withdrawal of such privileges will adversely effect workers in these sectors, and inhibit new investment in Costa Rica.
SUMMARY OF RESULTS OF PREVIOUS COMMITMENTS

In response to an invitation from the President of Costa Rica, Rafael Angel Calderón, representatives of the AFL-CIO, the Costa Rican Confederation of Workers, Rerum Novarum (CTRN), and the Inter-American Regional Organization of Workers (ORIT) met with President Calderón, Vice President German Serrano and Vice Minister of Labor Victor Morales in May 1991. The commitments made in this meeting were repeated publicly in a government-labor accord signed on October 22, 1992, over a year later. Below is a summary of the commitments made by the government to improve worker rights in Costa Rica, along with an evaluation of their implementation.

1. Protection of trade union freedom. In consultation with leaders of the Costa Rican unions, a new law was to have been drafted and submitted to the legislature that would prohibit employers from firing, harassing or otherwise taking reprisals against workers for exercising their right to form unions and engage in legitimate trade union activity. In addition, it was agreed that short-term administrative rules or decrees would be adopted to ensure compliance with ILO Conventions 87 and 98, which have been ratified by Costa Rica.

   Results: As of March 25, 1993, nearly two years later, nothing had been done. The unions drafted their own changes to the labor code and discussed those with the government on October 22, 1992, but no further action was taken. The Labor Ministry reported that a new code was being drafted by the government but that it was still not public. Regarding administrative decrees, nothing was done in this area because, as explained by the Ministry, mere decrees cannot substitute for existing labor code provisions. In the meantime, increasing numbers of workers have been fired for trade union activity, as documented in this report.

2. Removing criminal penalties for striking. It was agreed that a new law would be drafted and submitted to the legislature that would remove criminal penalties against workers who organize strikes by abolishing Articles 333 and 334 of the Penal Code. The government promised to press vigorously for its enactment.

   Results: A draft law was submitted to the legislature, but according to trade unionists, it is low on the government’s formal list of priorities for the legislative agenda.

3. Ratification of New ILO Conventions. It was agreed that approximately 30 ILO conventions would be submitted to the legislature by December 1, 1991, for approval under an expedited procedure to speed enactment. The most important of these is the convention extending collective bargaining rights to government employees.
Results: As of March 25, 1993, the government has not submitted the ILO conventions for consideration. Furthermore, the Supreme Court issued a ruling that public employees would no longer be able to use the system of collective voluntary arbitration through the labor courts. This system has served for years as a kind of substitute for true collective bargaining. Now, public employees have no form of collective bargaining available to them at all. The AFL-CIO sent a letter to President Calderón on October 13, 1992, protesting this action and lamenting the lack of progress on other commitments.

4. Prohibition of collective bargaining by management-controlled groups. It was agreed that a new law would be drafted and submitted to the legislature prohibiting management-controlled solidarista associations from engaging in direct or indirect collective bargaining by establishing "permanent worker committees" to sign "direct agreements" that circumvent trade unions. In addition, the Labor Ministry agreed in the short term to stop recognizing such "direct agreements" in companies that already had a trade union.

Results: The Labor Ministry did adopt a new regulation as promised, but since there are so few existing trade unions in the private sector, the effect was minimal. In companies without existing trade unions, the number of "direct agreements" registered by the Ministry has grown, and no new law has been submitted to the legislature.

RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

The right to organize and bargain collectively is a basic right, yet thousands of workers in Costa Rica are not afforded this right. Workers in the private sector are denied the right to organize and bargain collectively because the law provides them no protection whatsoever against retaliation by employers for exercising legitimate union activities. Furthermore, the law allows employers the right to establish competing organizations known as solidarista associations that in practice "negotiate" collective agreements with management. In the public sector, workers are prohibited from bargaining collectively. Workers in both sectors face heavy fines and jail sentences for exercising their right to strike.

Retaliation by Employers

The Labor Code of Costa Rica, adopted in 1943, provides no protection for trade unionists from reprisals by employers for trade union activities. There is no legal protection for organizers or leaders of a union in formation, nor is there legal protection for officers once a union has received legal recognition.

One provision of the Labor Code theoretically provides protection during a limited time period. This occurs after 60% of the workers in a company sign a petition of grievances ("pliego de peticiones") which is submitted to a labor judge. If the judge accepts the petition,
thereby officially recognizing the conflict, the employer is prohibited from firing those workers who signed. However, the employer may fire workers before the petition is accepted and after the conflict is officially resolved. According to union representatives, it is common practice for employers to pressure workers to remove their names from the petition. When the 60% threshold is undercut by individual withdrawals, the conflict is no longer recognized and is legally deemed to be terminated. At that time, instigators of the petition can be fired. It is also common practice to fire trade unionists even during the "petition" period when they are supposedly protected. The reason: employers who break the law are not required to reinstate the unjustly fired workers, and the fines are so slight that breaking the law becomes profitable.

In other respects, the Labor Code gives employers a free hand to fire workers for any reason. With no notification, workers can be fired without cause. Under Article 28 (Attachment A), an employer is allowed to fire workers without cause and without notice if financial compensation (indemnification) is made. Article 85, Subsection (d) allows an employer to terminate an employee at "the will of the employer."

In addition, Article 81 allows employers to dismiss workers immediately without notification for a "valid" reason. The Article lists twelve possible "valid" reasons for dismissal. The last reason states that "whenever a worker fails in any serious way to abide by the responsibilities imposed by the work contract" an employer may dismiss the worker. Thus, taken together, Articles 28, 81 and 85 give Costa Rican employers great powers to immediately dismiss workers for any reason, including involvement in trade union activities, and to do so without notification.

As a result, few workers attempt to form unions. They know that if they are identified as union activists they will be fired. A labor inspector who met with AFL-CIO representatives in April 1991 confirmed that workers would be foolhardy to try to form unions in the private sector. He stated that "There are no effective sanctions to prohibit reprisals by employers against workers for trying to form unions." He told AFL-CIO representatives that the usual fine for employer infractions of the Labor Code range from 20 - 1000 colones, or US $0.15 - $8.00. He stated, "At the time [of the passage of the 1943 Labor Code], the fines were large, but now they are laughable and an invitation to break the law."

The following cases of dismissals for union activities illustrate the lack of protection for workers with an agreement with management to protect them.

On April 26, 1989, the Minister of Labor published the official recognition of the Union of Workers of the Aurind, S.A. Company (SINDEA) in the public register. The following day, each of the union leaders received letters dismissing them from their jobs. The names of the SINDEA leaders and a sample letter can be found in the Attachment B.

In another case of dismissal for union activities, the leaders of the National Union of Railroad and Port Workers were fired despite a clause in the collective agreement they
had negotiated with the employer. Article 4 of the Collective Agreement stated that leaders of the union would be protected from firing during their term in office and for four years after their term expired. However, in late 1990, two former leaders of the union, Efrain Sagot More and Dagoberto Vazquez Flores, and a current executive board member, Rafael Lizano Venegas, were dismissed from their jobs.

Another case involves the Standard Fruit Company of Costa Rica S.A., a producer and exporter of bananas (Exp. No. 133-92 inspection by the National Director of the Ministry of Labor and Social Security, [DNMTSS]). On September 18, 1992, an advisor to the Minister of Labor requested that the DNMTSS investigate violations of the trade union freedom presented by the trade union SITAGAH. The first visit took place on September 24, 1992, during which the secretary general of the union denounced the dismissal of 5 workers whom management had accused of trade union activities. Furthermore, they denounced the employer’s relentless campaign against the union which the workers were organizing. The same day a worker testified that the reason he was discharged was for his membership in the trade union and his attempts to cancel his membership with the "Solidarista" association. On September 25, 1992, another worker stated that he applied directly for severance pay because he had an injury and he was not permitted to retire from the company. However, when he joined the union, he was dismissed and paid his severance pay. The inspector turned in his report on September 30, 1992, and on October 30, the investigation ended with the exoneration of the company.

On April 23, 1992, the Association of Agro-Industrial Workers of "Untarenas (ASITAP) charged the Azucarera El Palmar S.A. with trade union persecution (Exp. No. 132-92). In this case, workers began making overtures to form a union and as a result 15 workers were discharged including the union organizers. The union vigorously condemned the plant owners for placing guards near the meeting place of the union organizers to report back as to who had attended these meetings, and as a result the workers were fired. The union local was formed, but none of the discharged employees were reinstated. The company was not condemned for trade union persecution, in spite of the weight of evidence against them.

In another case cited later in this document, 25 union leaders and organizers were fired from the Plumrose Company in 1987 in order to destroy the union. Such cases are rare because workers know they have no recourse in the legal system to protect them if they attempt to organize. This lack of protection is a basic violation of ILO standards. According to the ILO, "One of the fundamental principles of freedom of association is that workers should enjoy adequate protection against all acts of anti-union discrimination in respect of their employment such as dismissal, demotion, transfer or other prejudicial measures." (ILO, Freedom of Association Digest, par. 556).

The Costa Rican Government has acknowledged that there is insufficient protection for workers engaged in legitimate union activities and, as noted earlier, pledged to work with Costa Rican labor union representatives to devise legislative and administrative remedies. Partly as
a result of this pledge, the Confederation of Workers Rerum Novarum conducted an organizing drive in 1992-93 in a number of companies under the direction of the National Association of Workers in the Private Sector (ANTEP). Unfortunately, most of the workers involved in the campaign were fired, as documented in the cases presented below.

Empresa Talmana S.A.

In June 1992, a campaign to organize a union was begun at the Empresa Talmana S.A. in Puntarenas. This company exports shrimp to the United States and is owned by a North American, Emil Ramat.

By September 13, 1992, the union had a membership of 71 workers of the 105 employees.

An affiliate to ANTEP was formed, and the company and the Ministry of Labor and Social Security were notified. The principal organizers included:

Fausto Baltocano Diaz  
Manuel Brenes Mora  
Alfonso Chamorro Chamorro  
Rodrigo Mora Ulloa  
Bernardo Vega Figueroa  
Gerardo Carevaca Sánchez

The union leaders called for a meeting with the Ministry of Labor and Social Security and the employer on October 13, 1992, to discuss a series of violations of work conditions and persecution by the company against persons who joined the union, including workers who were members of the solidarista association.

The meeting was never held because the company asked for a change of the day and time. In the meantime, the employees listed below were fired:

Filadelfo López Guardado  
Miguel Barrantes Mendoza  
José Didier Araya Nuñez  
José René Díaz Trejos  
Alexis Cruz Calvo  
Juan Luis Benavides Gutiérrez  
Rodrigo Mora Ulloa  
Alfonso Chamorro Chamorro  
Luis Villalobos Cortés  
Rafael Angel Zuñiga Montero  
Alfonso Boniche Alvarez  
Douglas Rosales Fuentes
Carlos Alberto Muñoz García
Manuel Brenes Mora
Fausto Baltočano Díaz
Lucía Campos Gonzáles
Carlos Gutiérrez Arias
Mirna Ballester Peralta

All of those listed were members of the solidarista association and the union. In addition, the union leadership is under constant pressure from management.

On September 30, 1992, a formal complaint was presented to Lic. Alfonso Solorzano Rojas, chief of Labor Relations at the Ministry of Labor and Social Security, for the firing of union workers and the violation of freedom of association. Following an investigation, a labor inspector assigned to the case by the Labor Ministry determined that the firings, which occurred between September 21 and October 23, were a clear violation of freedom of association.

On December 15, 1992, the Constitutional branch of the Supreme Court ruled in favor of the union and ordered the company to suspend all anti-union activities and rehire the fired employees. To this date the company has not complied with this order.

Moreover, reprisals against the union continue.

Peters Corporation S.A.

Hoping to improve workplace conditions, workers of the Peters Corporation, S.A. which operates 20 coffee mills in Costa Rica, organized an affiliate to ANTEP.

However, the company proceeded to fire the following organized workers:

Carlos Corrales Arce
Jorge Castro Ugalde
Manuel Acosta Araya
Geiner Cubero Cubero
Rubén Arias Castro
Gerardo Molina Carballo
Adilio Pérez Vargas
Gerardo Ramírez Ledeza
Benigno Muñoz Solorzano
Javier Arguedas Badilla
Francisco Rojas Quesada

(7)
Empresa Partisand S.A.

During November 1992, a large number of workers formed a union at the Empresa Partisand S.A., a shoe manufacturer in Llorente de Tibas, and elected Elizabeth Salas Rodríguez (CC #1-586-750) as the union representative. A series of complaints involving sexual harassment were presented to the Ministry of Labor and Social Security.

On November 16, 1992, the company fired Elizabeth Salas Rodríguez without her severance pay allowance.

The case is currently under review in the Labor Court.

The Corporación Rojas Cortés S.A. (Farms)

The Corporación Rojas Cortés S.A. consists of a large number of agricultural operations which are located near Turrialba, in the province of Cartago. The company, which has been in existence for over 100 years, grows coffee, sugar cane and macadamia nuts.

Traditionally, anyone who has attempted to organize a union has been fired. In October 1992, 30 employees formed a union and compiled a series of complaints which were presented to the Ministry of Labor. They included:

- Non-payment of minimum wages
- Non-payment of labor accident policy
- Lack of security for young women under legal age who are sent off to work away from the cities
- Non-payment of salaries of injured personnel
- Poor living conditions of houses let to employees
- Sexual harassment of women by supervisors
- Delayed salary payments and illegal deduction of money from workers who are in the Solidarista Associations
- Lack of transportation for workers assigned to work some distance from home.

Subsequently, in November, the employees called for an assembly and elected their leadership. Immediately thereafter, all of the members of the union and the entire leadership were dismissed from their jobs. This was done in spite of notification from the Ministry of Labor to the business and the union, detailing all of the legal rights of the employees which included the right to freedom of association.

A subsequent complaint has been filed with the Ministry of Labor and is under investigation.
The Compañía Bananera Agropecuaria Rio Jimenez S.A.

The Compañía Bananera Agropecuaria Rio Jimenez S.A., is a banana producer located in Villa Franca, Limón and has a labor force of 200 workers.

In November 1992, a large number of members of the Solidarista Association asked the ANTEP for help with various labor problems, including:

- The truth regarding the sale of the company
- Poor working conditions
- Persecution of workers.

ANTEP asked the Minister of Labor and Social Security to conduct a meeting between the workers and management in order to discuss the labor problems.

The Minister of Labor arranged the meeting; however, the company did not participate. Furthermore, the company began harassing the workers who had signed the petition and fired two petitioners:

Luis Alvarado Bertarioni
Gil Contreras Moraga

Industrias Realtex S.A.

During November 1992, a large group of workers at Industrias Realtex, a Korean clothing company in Cartago, asked ANTEP for help in establishing a union in order to address some of their labor problems, including difficult working conditions, verbal abuse and bad treatment by management.

The employees held an assembly and the union leadership was chosen. The next day, the company fired all of the people who attended the assembly including the newly elected union leaders.

The Right to Strike

Costa Rica’s Labor Code also restricts the right of both public and private sector workers to strike and imposes harsh criminal penalties on those who do. Articles 368 and 369 (Attachment C) prohibit strikes and impose resolution of conflicts in the Labor Court for all public sector workers. As noted above, "public sector" includes a wide range of economic activity: one estimate is that it covers 65 percent of the economy.
Despite the absence of legal protection for strikers in the public sector, some strikes have occurred. However, the workers always know that their personal freedom is in jeopardy when they begin a strike. According to Articles 333 and 334 of the Criminal Code of Costa Rica, a worker who initiates a strike can be sentenced from six months to two years in jail and fined. More than 1,000 labor leaders and affiliates have been prosecuted under the Criminal Code since 1972 for initiating a strike.

One such case occurred in the town of Grecia where the municipal workers went on strike in August 1990 to protest a series of anti-union measures taken by the government. In January 1991, three leaders of the Authentic Confederation of Democratic Workers (CATD), to which the Municipal Workers Union in Grecia is affiliated, were charged under the criminal code with "inciting abandonment" of public sector duties.

To remedy the situation, the government has drafted a proposal abolishing Articles 333 and 334 of the Criminal Code. If this law were to pass, workers will no longer be subjected to prison terms and heavy fines for calling a strike in the public sector. However, as noted above, the law is languishing in the legislative assembly with little chance of passage. Furthermore, even without its onerous criminal penalties, the law banning strikes in such a wide range of economic activity is by itself not in conformity with internationally-recognized worker rights.

Public Sector Bargaining

Through a series of laws and administrative rulings, the Government of Costa Rica has prohibited collective bargaining in the public sector. The General Public Administration Act of 1978 established that administrative law, rather than labor law, applies to all relations between the government and its employees. As a result, the government declared the collective bargaining agreements with the public sector to be unconstitutional. This was sustained by the Supreme Court in 1992. In addition, two budget acts in the early 1980's reduced the ability of autonomous state enterprises to control their own budgets, thereby effectively denying collective bargaining in those institutions as well.

In Costa Rica the "public sector" includes not only government offices but also all autonomous and semi-autonomous institutions covering an astonishingly wide range of economic activity. For example, the public sector encompasses the insurance business, all banks, the oil business and related industries, electricity, water, communications, transportation, ports, agricultural producers of seeds, fertilizers, and insecticides, the cement business, teachers, hospitals, etc. While the ILO allows prohibition of strikes by workers engaged in the direct administration of the state and in certain "essential services," it insists that collective bargaining is a right for all workers, including public sector workers.

The Government has acknowledged that its laws contradict ILO standards and pledged in May 1991 to ratify approximately 30 additional ILO Conventions, which would take
precedence over Labor Code articles currently restricting worker rights. Among the most important conventions to be submitted to the Assembly for consideration is Convention 151 which extends the right of collective bargaining to public employees. Unfortunately, as of March 25, 1993, the government has not submitted the ILO conventions for consideration. Furthermore, as noted above, the Supreme Court issued a ruling that public employees would no longer be able to use the system of collective voluntary arbitration through the labor courts, thereby denying them all forms of collective bargaining.

**Bargaining by Management-controlled Organizations - Solidarismo**

Originally, "solidarista associations" were created to promote the principles of interdependence and cooperation between employers and employees. However, the associations have permitted the domination of employees by the employer who controls the organization both financially and organizationally. In practice, the associations are established and dominated by management.

The development of the solidarista movement in Costa Rica began with its inception in 1949, but it has grown most rapidly in the past decade. In 1980, there were 215 solidarista organizations, but by 1988 the number had grown to over one thousand. The movement has spread beyond Costa Rica’s borders to several other Central American countries.

The ILO defines solidarista associations as

"associations of workers which are set up dependent on a financial contribution from the relevant employer and which are financed in accordance with the principles of mutual benefit societies by both workers and employers for economic and social purposes of material welfare and of unity and co-operation between workers and employers."

Article 2 of ILO Convention 98 states that workers organizations and employers organizations should be free from interference and intervention by the other. In subsequent reviews of the solidarismo movement, the ILO Freedom of Association Committee has emphasized the importance of tripartism, which presupposes organizations of workers and employers are independent of each other and the government. In solidarista organizations, both employers and employees contribute financially and together participate in the management of the funds and programs. It should be noted that the majority of top level offices in solidarista organizations are held by senior staff and administrators rather than rank-and-file employees.

If such associations were limited to programs for savings, credit, investment, housing and education, no violation of worker rights would exist. However, in Costa Rica, solidarista organizations have been used by employers, with the support of the Government, to replace trade unions and "negotiate" collective agreements. At this point, when employer-influenced mutual associations take the place of legitimate trade unions, worker rights are denied. In fact, the U.S.
State Department, in its 1990 Country Reports on Human Rights Practices, defines the solidarismo movement as "an alternative to traditional trade unionism."

The legal mechanism used by employers to deny true collective bargaining is known as the "arreglo directo" or "direct agreement." Under Article 497 of the Labor Code, any group of workers is allowed to establish a "Permanent Workers' Committee," which can sign a direct agreement with management regarding wages, working conditions and other matters. The government officially registers this "direct agreement," thus making them legally binding and removing any further obligation of management to bargain collectively with the union.

Unfortunately, Costa Rican law makes no provision for ensuring that such "Permanent Workers' Committees" are truly representative of workers. In fact, they are often set up by pro-management employees with the active encouragement of management. A high-ranking official in the Labor Ministry has described the process in this way:

"In recent years, the Labor Ministry gave priority to direct agreements over collective bargaining contracts. As soon as a trade union would attempt to begin negotiations, a Permanent Workers' Committee would suddenly appear and negotiate a direct agreement, which would then be promptly registered by the former Labor Ministry. The direct agreement would often consist of nothing more than a restatement of minimum standards in the Labor Code which employers are supposed to obey anyway."

The growth in the number of direct agreements at the expense of true collective contracts is shown in statistics provided by the Costa Rican Solidarista Union. In 1980, the government registered 41 collective bargaining contracts and 10 direct agreements. In 1988, the count was 18 registered collective bargaining agreements and 32 direct agreements.

Not surprisingly, the growth in direct agreements has coincided with the growth in solidarista associations. The case of workers at the Empacadora Costarricense Danesa, a member of the Plumarose Group, illustrates the tactics used by employers to avoid collective bargaining through the use of a solidarista association and a direct agreement. On May 6, 1987, workers formed a union at Plumrose and presented a complaint in conformity with the Labor Code which was received by a judge the following day. One week later the employer presented an "arreglo directo" or direct agreement which had a clause establishing a solidarista organization. The direct agreement was formally rejected by the employees and then by the labor inspection office's ruling. In July, all of the leaders of the recently organized union and 25 other union members were fired. The employer destroyed the union through a mass dismissal of its leaders and members, then instituted a solidarista association through a direct agreement. This is a typical example of the use of solidarista organizations to replace trade unions.

The ILO began an investigation into the solidarismo movement in Costa Rica in 1988 following a case filed by the ICFTU. In November 1990, the ILO Freedom of Association Committee recommended that a direct contacts mission visit Costa Rica to examine the problem. The ILO team visited the country in April 1991 and reported on its findings in June. The report
confirms that management use of solidarismo is a violation of freedom of association because the solidarista associations, to which employers belong, assume many of the functions of trade unions.

In response to the ILO visit, the Government promised to introduce legislation prohibiting solidarista associations and employers from establishing Permanent Worker’s Committees to negotiate direct agreements that circumvent normal collective bargaining with trade unions. Unfortunately, such legislation has not been introduced. The Labor Minister did issue a regulation which discourages government registration of a direct agreement in any firm where a legally recognized union exists. However, there are so few trade unions in the private sector that in practice, the number of “direct agreements” continue to grow. As long as the Labor Code allows Permanent Worker’s Committees to exist at all and to negotiate direct agreements, management will be tempted to continue their interference, albeit using more subtle methods than before.

Worker Rights Standards in the Free Trade Zones

During an interview with AFL-CIO representatives on April 26, 1991, a labor inspector in the Ministry of Labor reported that cases of violations of health and safety requirements have been on the rise in the free trade zones. Workers have registered complaints of mistreatment, physical and mental abuse, sexual harassment and health problems. The growing problem is documented in a news article in the Tico Times dated May 4, 1990 (Attachment D). The article cites one example from a maquila factory,

One Friday work began at 7 a.m. as usual; at 4 p.m. the boss arrived with the paychecks and informed workers they would not be paid until the company’s export quota was filled. They worked through the night, leaving after 1 p.m. on Saturday.

In the spring of 1990, an investigation into the abuses in the free zones was launched by the Labor Ministry, but it was terminated after visits to only four zones were completed due to lack of resources. The inspection office of the Labor Ministry is understaffed and under-budgeted and cannot handle the load of cases. The inspection office is unable to investigate complaints due in large part to a lack of resources. The 30-person office has one computer, one telephone and one vehicle for use in field investigations. The AFL-CIO has serious concerns about the health and welfare of the workers in the free zones and believes the Costa Rican Government is not investigating these cases to the fullest extent.

In late 1991, the Ministry of Labor carried out another investigation into abuses of worker rights in the free trade zones. This inquiry covered 28 businesses and identified 194 violations of occupational safety, health, and trade union rights. The most common violations were:
1. Minimum wage is not paid in accordance to the professional level of the employee.

2. Working hours are excessively long. It was determined that some businesses worked more than 12 hours which is the maximum established by law.

3. In many textile plants young people between the ages of 15 and 17 worked 12 hour shifts. Legislation establishes for these cases a normal shift of seven hours and one extra hour.

4. Occupational safety and hygiene measures do not meet the needs of the workers.

5. There are cases of verbal abuse, physical abuse and sexual harassment. At times, the employers do not report the complete salary to the Social Security System nor do they provide insurance for the personnel.

6. Payment for overtime is withheld or made on the basis of straight time. The Labor Code establishes that overtime hours should be calculated on a basis of time and a half.

7. Excessive reduction of time for rest (lunch and coffee).

Conditions for the workers in the free trade zones and "maquilas" operations have not improved since the completion of earlier studies.

CONCLUSION

Workers in both the public and private sector in Costa Rica face serious obstacles in forming trade unions and performing trade union activities such as collective bargaining and strikes. In view of the denial of basic worker rights in Costa Rica, the AFL-CIO urges the removal of Costa Rica from the list of GSP beneficiaries.
ARTICLE 28 - In a contract for an indefinite time, each party may terminate it, for no reason, by giving prior notice to the other party, according to the following rules:

a) After a period of continuous work of no less than three months, nor greater than six, with a minimum of one-week in advance;

b) After a period of continuous work of over six months, but less than one year, with a minimum of fifteen days in advance; and

c) After a period of continuous work for a year with a minimum of one month in advance.

Such notices shall be given in writing, but, if the contract was verbal, the worker may also give notice verbally if there are witnesses; and these notices may be omitted by both parties, without affecting severance pay, with each party paying the other an amount equal to the salary corresponding to those periods.
The following persons from the Executive Board of the union, Sindicato de Empleados de la Empresa Aurind, S. A., SINDEA [Employees Union of the Aurind Corporation], registered with the Labor and Welfare Ministry. [Published in the Official Registry of Costa Rica on Wednesday, April 26, 1989]:

Mr. Edgar Murillo Madrigal General Secretary
Mr. Marvin Gerardo Arroyo Mora Assist. General Secretary
Ms. Olga María Roque Ugalde Recording Secretary
Mrs. Sady Rodríguez Rodríguez Corresponding Secretary
Mrs. María Marcela Bogantes Rosales Finance Secretary
Mr. Héctor Rodríguez Rodríguez Public Relations Secretary
Mrs. Hilda Ugarte Medina Labor Relations Secretary
Mr. Olivier Murillo Salas Recreation Secretary
Mr. Juan Carlos Soto Esquivel Fiscal

Each of the union leaders mentioned above, received a letter similar to the following:

Mr. Marvin Gerardo Arroyo Mora
Present

Mr. Arroyo Mora:

Since you have been spreading rumors that affect all aspects of the company’s stability and policies, besides tarnishing the reputation of your superiors and co-workers, management has decided to terminate you as of this date without any liability on the part of the employer, according to Article 31, Item Ch, of our Internal Work Contract.

Yours truly,

AURID, S.A.

Dr. A. Tsunami
General Manager of PRII and Personnel
Alajuela, 27 de abril de 1989

Senor
Marvin Gerardo Arroyo Mora
Presente

Senor Arroyo Mora:

Debido a que usted ha estado propagando rumores que afectan la estabilidad de la Empresa y su política en todos y cada uno de sus aspectos y que también estos afectan el buen nombre de sus superiores y compañeros de trabajo, es que la Empresa ha decidido prescindir de sus servicios a partir de esta fecha sin Responsabilidad Patronal, conforme a lo dispuesto en el Artículo #31, Inciso Ch de nuestro Reglamento Interno de Trabajo.

Atentamente,

AURINU, S.A.

Dra. A. Tsunami
Gerente de RRHH y Personal

cc: Sres. Laks
Lic. A. L. Castro
Archivo
ATTACHMENT C
ARTICLE 368. - Strikes in the public services will not be allowed. In cases of disagreements between employers and workers in these sectors, as well as in any other situation in which strikes are prohibited, it will be mandatory to bring them up before the Labor Courts for review and resolution.

ARTICLE 369 - For purposes of the foregoing article public services are the following:

a) All of those that are performed by employees of the government or its agencies whenever these activities are not for private profit-making companies;

b) Those performed by workers engaged in planting, cultivation, or collection of agricultural products, livestock or forestry, as well as those engaged in their processing, whenever failure to immediately perform such tasks will result in spoilage of the products;

However, excepted from the foregoing list are those services rendered by agricultural workers employed by companies under government contracts, that have become national laws, wherein it is stated that companies and workers may bring the matter to arbitration for purposes of solving their disagreements, but only in cases where they voluntarily resort to such a procedure;

(This item is an addendum to Law 1842 of December 24, 1954)

c) Those performed by workers in railroad, maritime and air transportation companies, and by workers engaged in loading and unloading from piers and wharves, and by workers while travelling in any private transportation company prior to the termination of such travel;

(Amended by Law 25 of November 17, 1944.)

d) Those performed by workers who are absolutely indispensable for the maintenance and operation of private companies that cannot suspend their services without serious and immediate damage to public health or to the economy, such as clinics, hospitals, sanitary and cleaning operations, as well as public lighting of populated areas; and

e) Those so declared by the Executive Power throughout the national territory, or in any part thereof, once the Legislative Assembly, using its constitutional powers, has suspended certain individual guarantees. (1)

(Those amended by Law No. 3372 of August 6, 1964.)

(1) See Article 140, Item 4 of the Political Constitution.
ATTACHMENT D
Abuses Abound in Foreign-Owned Textile Factories

Labor Pains

The Other Side of the Export Story

Part I

around the Central Valley.

 saddened by the 50-member
Association of Textile Plant
Employees, which has reported
that there has been no industry
in the area, the sector has gained an unenviable bed image.

Nineteen看著 of owners, Ministry and
other officials aimed at improving local
communication and solving problems.

Unfortunately we live in a country
which has an absolute labor code, which is not
adjusted to current realities and
workload, but these last breaks are rou-
tine. The company's laws, written in
Bahamas, regulations -- Safeman ordi-
naires are issued twice a year, by any worker
outside of the company, at any other time, can't.

Privacy violations -- Labor appor-
tions for information on every worker.

When you have that kind of situation, it's better
to misunderstand the code than it is to accept the
laws, fixed by law in 1966, are worse, especially
and the town of Tegucigalpa, busses, noting that for a single infrac-
tion, from $200 to $1,000. The labor
laws are very much a deterrent.

workers in Cantona Rica factory:
employment or exploitation? all.

According to CIPOVE estimates, some 70
percent of foreign- owned textile factories
belong to North Americans, with Aslan
incomes from 4,000 to 5,000 workers. The
Cantona Rica government: 38 percent of
the 40,000 textile workers fall into this
category, says). Total workers
report that the code is the most vulnerable
to exploitation.

SEVERAL women textile workers inter-
viewed said they couldn't afford to quit their
jobs or complain about conditions, because
they have neither the time, the money
nor the skills to seek outside options or look
for another job. They also said they couldn't afford
to change to a different factory. Women's
hours, they said, are long, and the work
is physically demanding.

But, Chacon claims that many of
these women "wouldn't have a job in anything
else, because they are good, they can
work hard, and they will stay as long as
they have to, even for years, or they can learn
to develop a skill, then stay at home with their own
children and become their own
makers. They have learned to make a living.

The code is not respected by the factories.
According to data by the
monthly make
the average worker could earn $2.50.
BUT even as Chacon pressed
improvements in the industry he faced a
former inspector who was investigating a company
charged with sexual harassment.

"It's only different is that our sector is run
and owned by foreigners," she said. "They don't have
problems with any other sector. This is a new industry,
and one which doesn't depend on the national
banking system. It's easier to pen-
dent. But we don't have fees or hand out
money.

Insurance Workers Strike

EMPLOYEES of the National Insurance
Institute (INS) went on strike Thursday fall-
in protest over wage disputes and inadequate
pensions. The workers struck for 4,500 pesos
per month for each employee.

The strike has halted INS services, al-
though the absenteeism is striking changes.

FARMERS are demanding an increase in their
living standards.

Liberator, a former worker at the INS, said he had
been involved in the union's activities.

Deputy to Clear Name

NEWLY elected National Liberation
Depot, Albino Esquivel, announced his
intention to make his seat in the Assembly
for six months, unless he is cleared of allega-
tions of drug-trafficking reported by a re-
gional newspaper, La Estrella Del Sur.

Esquivel, campaign chief during the
electoral campaign, has also faced.
Everyman for the 1982 elections, but
was cleared of drug-trafficking.

"We won't tolerate from different cul-
tures, because there's no unity within
the country," said a former worker.

Don't abandon us, the workers,

CIPOVE's Chacon praised the

Cooperatives today in the textile
industry.

The Tico Times, Friday, May 10, 1990

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"Labor Pains"

The Other Side of the Export Story Part II

secution have declined recently, but noted others that as far as the company is concerned, the only union attempting to organize among textile and food workers, Masboli said as far as the known, no ASEP member factory is unionized, although some have Solicadrosco employees, their actions, which as savings and investments funds.

"Most of the time, people who join unions are afraid of being branded union members for fear of ending up on a blacklist. They say mid-level supervisors or supervisors often give "friendly warnings" that unions are bad and sometimes that those who join do not join.

"I wasn't aware of the company's and representatives of the纺织 workers, who have joined unions for three and a half years, but not openly at the factory," said Scorero Canales, who worked 12-hour days as a supervisor in a U.S.-owned textile factory for 14,000 a week. "There is tremendous persecution of unions. At least I was a supervisor on the shop floor and I was talking about unions and they could be fired.

Canales, said, was a former employee of an unorganized factory, he doesn't believe she was fired for union activism, because a union was organized, as a union leader I know that. I asked them, it's very important, but because of the repression, you don't have the time to do so. Workers are not as strong as they are.

"While the U.S. may be suffering from some persecution, they also have a general decline throughout the last decade, because of the 1965 singularity, economic crisis which caused huge unemployment, and the rise of Solicono Associations, sources say.

Union also suffered a serious blow when multinational banana companies, faced with strikes and mass-action, pulled up stakes and abandoned the area. The Catalan unions have lost thousands of workers, leaving thousands out of work and blaming the unions.

Government institutions are now the major supporters of unionized labor force, with 77 percent of unions and most of the nation's 154,000 union members working for those sources, sources say.

"The 80s were a very complacent time for the unions, because the economic crisis (at the start of the 1980s) led in an uncertain labor situation, bankruptcies and unemployment rates that rose from 5 to 17 percent," explained Aguirre, head of the Labor Ministry's Labor Relations department.

The unions are now in a more favorable position, leading to confrontations between them. The former minister of Labor was so serious that a former minister of Labor was fired because the unions demanded.

No one said that there was a future in private enterprise, but if their limited options, they have rejected the government's call for new private enterprises, trade unions and organizations, and union networks and negotiates well.

The unions tend to hold the important role in industry which could even benefit the.

UNION leader Serrano: meetings must be secret.

boast, because there is a labor shortage in industry, and a network of union workers.

"They asked me if I was in the union and I said yes. Before I always said no," said Aguera. "But I need somebody who will help me the day I'm fired."

(Next Week: Solidarismo's Dark Side)
Labor Pains

The Other Side of the Export Story Part III

Solidarismo's detractors argue either that the theory is wrong — that collective bargaining and union strength are necessary to ensure fair work conditions — or that in practice, Solidarismo is abused by bosses who cheat workers.

Several industrial workers interviewed from different factories said they had been cheated out of their savings, because their company's Solidarismo association had only the barest minimum to give its members. The money, they claimed, was being misused.

Several industrial workers interviewed from different factories said they had been cheated out of their savings, because their company's Solidarismo association had only the barest minimum to give its members. The money, they claimed, was being misused.

Workers from at least two factories — Industrias Barranco and Almada de Costa Rica — found that their bosses had not only gone bankrupt, but had taken all money from their employees' Solidarismo associations down with them, leaving the workers with nothing and in debt. And in some businesses, Solidarismo members have been known to find their association officers — and their money — long gone. Because of legal costs and lengthy, time-consuming paperwork, few associations have filed criminal charges, preferring to try to make deals to get at least some of their cash back.

RODRIGO Jimenez, executive director of the Solidarismo Union, the umbrella organization which represents the associations and provides training and expertise, said such abuses are "not the idea of Solidarismo."

"Some businesses, the foreign-owned one, have a different system with an adventurous spirit, and are really not committed to even a minimum responsibility to the workers or to the concept of Solidarismo," he said.

Jimenez added that there is often little that the organization can do, because the complaints come after abuses have already occurred.

"If there are problems, the workers should call us, and we will give training and advice," he said, adding that the only well-documented example of abuse was the Industrias Barranco case — in which the workers were left with nothing.

"There are some workers who are too afraid to speak up, and others are too afraid to speak up, and others are too afraid to speak up," he said. "But there are some abuses and some failures in such an almost-never-sung surge is not surprising."

According to the labor rights groups, 60 percent of Solidarismo board members are management officials, union chiefs, and police. Only 12.5 percent are plant workers.

"Workers are made to feel less valid, not equal."

SOLIDARISMO founder Martin said he's been involved in Solidarismo's friendly employer relations as "the original sin," and admitted that in some factories there is "patronism, manipulation, and arrogance." But he believes his system cannot be imposed to legislate against human greed.

WHILE union leaders and Solidarismo leaders say it out, exchanging insults and lawsuits, Solidarismo leaders have also been involved in a First World compromise in civil suits for labor and improved conditions, a Solidarismo association for savings, investments, and loans. Female factory workers meeting secretly with their clandestine union are also members of the company's much-touted Solidarismo association, and say they're grateful for Solidarismo's first-aid benefit. Although they also wear a Solidarismo badge that they say will help for their rights — improved conditions and increased salaries.

"I wouldn't have the Solidarismo Association to end, because if the company fires me without rights, at least they have to give me my savings," said a labor leader named Manuel. "But we have to fight hard, because if we don't defend ourselves, who will?"

(Personal note: Layoffs Loom)

Enjoy a jungle adventure with us.

SUNNY UNION CHURCH

TOUR THE CANALS OF THE AMALFI

ENJOY A JUNGLE ADVENTURE WITH US.

(A Spirit Filled Chili Dig with a Ministry)

We have two activities this week, one in coconut, the other in all the union churches in the area. We'll be there, so don't miss us.

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Labor Pain
The Other Side of the Export Story Part IV

by Karen Cheney

In a precedent-setting case, Costa Rican workers filed suit against Standard Fruit for injuries suffered during a 1972 strike over the company's proposed relocation of workers to a new banana plantation. The strike led to a landmark court ruling in favor of the workers' right to organize and to the recognition of their union as the sole bargaining agent. The case set a precedent for labor rights in Costa Rica and helped establish the country's reputation as a leader in worker rights.

Bishop's Blast at Banana Industry Fuels Debate

DOMINGO Castro and 81 other Costa Rican employees of Standard Fruit and their families sued DCPC recently in a landmark case that could have far-reaching implications for labor rights in the country. The lawsuit, filed in the United States District Court in New York City, alleges that the company violated U.S. labor laws by forcing workers to work under unsafe conditions.

“THEY were forced to work 12 hours a day in the hot sun,” said one of the workers. “We were never given breaks and we were constantly threatened with violence if we tried to organize.”

The workers were employed at a banana plantation in Costa Rica, owned by DCPC, a subsidiary of Standard Fruit. The case was brought on behalf of 81 workers who were fired after they tried to form a union to negotiate better wages and working conditions.

“WE believe that this case will set a precedent for labor rights in Costa Rica,” said Domingo Castro, one of the plaintiffs. “We are fighting for our basic rights as workers and we won’t back down until we win.”

The case is being closely watched by labor activists and union leaders across the country, who see it as a potential turning point in the fight for worker rights in Costa Rica. The outcome of the case could determine the future of labor relations in the country and could have implications for workers in similar situations around the world.
Labor Pains
The Other Side of the Export Story Part V

In the banana industry, workers face the loss of their jobs and the decline of their working conditions. In the Atlantic Zone, banana workers have seen a drastic reduction in their wages, as multinational companies have taken advantage of the weak working conditions in the region. Workers have been forced to work longer hours for lower pay, and many have lost their jobs altogether.

The community of workers in the Atlantic Zone has been affected by the decline in banana production. Workers have faced difficulties in finding alternative employment, as the local economy has been reliant on the banana industry. Workers have also experienced a loss of dignity and respect, as they are seen as disposable workers in the global market.

The government has failed to provide adequate support to the workers in the banana industry. Instead, they have entered into agreements with multinational companies that prioritize profit over worker welfare. This has resulted in a decline in working conditions and a loss of jobs for many workers.

The government must take action to support the workers in the banana industry. They must prioritize worker welfare and ensure that workers are treated with dignity and respect. They must also work to diversify the local economy and provide alternative employment opportunities for workers.

Ex-Candidate: AID Pact Obligates Government

A recent $80 million agreement signed between the United States and Costa Rica has raised concerns among local politicians and activists. The agreement was negotiated by the administration of President Arnoldo Alegre, who was replaced by President Luis Guillermo Solís in 2014.

The agreement was reached with the participation of the United States Agency for International Development (USAID) and the government of Costa Rica. The agreement is expected to provide $80 million in financial support for projects related to education, health, and infrastructure in Costa Rica.

However, the agreement has raised concerns among local politicians and activists. They argue that the agreement may be used to advance the agenda of the United States at the expense of Costa Rican interests. They also argue that the agreement may undermine the sovereignty of Costa Rica.

The government of Costa Rica must be careful in negotiating agreements with international partners. They must ensure that the agreements are in the best interests of the country and its citizens. They must also ensure that the agreements do not undermine the sovereignty of the country.

The government of Costa Rica must also work to improve the living conditions of its citizens. They must prioritize worker welfare and ensure that workers are treated with dignity and respect. They must also work to diversify the local economy and provide alternative employment opportunities for workers.