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NEW YORK LABOR COMMITTEE
IN SUPPORT OF DEMOCRACY AND HUMAN RIGHTS IN
EL SALVADOR

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Local 140 UFWA
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- Director: Alan Howard
DC 37, AFSCME
- Coordinator: Barbara Briggs

**PETITION BEFORE THE U.S. TRADE REPRESENTATIVE
ON LABOR RIGHTS IN GUATEMALA**

NEW YORK LABOR COMMITTEE IN SUPPORT
OF DEMOCRACY AND HUMAN RIGHTS IN EL SALVADOR

MAY 1991

As trade union leaders who have monitored the labor rights situation in Guatemala with concern, we herein submit to the United States Trade Representative (USTR) a petition documenting labor rights violations in Guatemala pursuant to Section 502 (b) (8) of the Trade Act. This is to request a formal public review of the labor rights situation in Guatemala.

Violation of Workers' Rights in Guatemala

It is crucial to state for the record that every single labor federation in Guatemala is actively calling for the termination of U.S. GSP trade benefits to Guatemala as the only workable method of pressuring for labor rights reforms, especially in the maquila industry.

• U.S. Commerce Department Notes Violations of Labor Rights in Guatemala

Reporting on "Workers' Rights" in Guatemala, a 1990 U.S. Commerce Department Country Report documents the following violations of internationally recognized worker's rights.

- * "Workers face cumbersome bureaucratic obstacles to obtain authorization for a union to operate legally, thereby violating Guatemala's obligations under the ILO Convention (to which it is signatory)."
- * "in rural areas...enforcement of the minimum wage is practically nonexistent."
- * "Few workers are covered by collective bargaining agreements. The greatest obstacle to organizing and bargaining is not the law, but lawlessness. Demands for economic benefits may be met with threats and violence."
- * "Although anti-union practices are forbidden, enforcement requires court actions and penalties are almost nonexistent."
- * "Only a small portion of the workforce is unionized, primarily because of social, not legal constraints."
- * "The constitution provides a minimum age of 14 for the employment of children. In the informal sector, this (along with other labor regulations) is not effectively enforced."
- * "While occupational safety and health regulations exist, the mechanism for their enforcement is not effective."
- * "The minimum wage in the garment industry is less than a dollar per day..." or, 11 cents (U.S.) per hour.

• Union Destroyed at U.S.-Owned Maquila Factory

CASH (1)
The SITRAINTEXSA union at the U.S.-owned Inexport clothing factory was one of only two unions established in the maquila sector in Guatemala.

In September 1989, U.S. owner Henry Robbins Cohen illegally fired 152 members of the SITRAINTEXSA union without cause and hired new workers in their place. The union contended that the workers were fired because they had organized a union. The courts have consistently judged in the workers' favor, that the firings were illegal and that Inexport must immediately reinstate all the fired unionists. But, as the labor attaché at the U.S. Embassy observed, the law in Guatemala is rarely, if ever, enforced. Lacking any other recourse, the fired unionists set up a round-the-clock vigil in front of the factory, but lack of money and death threats from Guatemalan security forces have all but broken the union. (C1)

Employer Henry Cohen has subdivided Inexport into five smaller companies and formed his own Solidarista company union. Despite the court decision against him, Inexport continues to export to the U.S. under the following labels: McKids, Topsville, Guess Products, OP, Mickey and Co. by J.G. Hook, Denim Republic, Blair, Silver Unicorn, Golden Wings, Classics and several others. The head of personnel management at Inexport during this union busting drive has recently been appointed first adviser to the Minister of Labor.

***International Labor Rights Violations:**

**Right to Protection from Discrimination or Retaliation
Against Union Activities** FOA

The ILO notes that "no person should be prejudiced in his employment by reason of his trade union membership or legitimate trade union activities," (p. 101) Acts of discrimination include retaliatory firings and punitive transfers.

Right to Freedom from Interference in Union Activity FOA

The ILO proscribes the use of force or intimidation to curtail union meetings, work actions or strikes. (p. 83)

• Union at Lunafil Under Attack (C2)

After contract negotiations between the SITRALU union and management at the Lunafil thread factory had broken down over management's attempt to impose a longer work week, including mandatory 12-hour Saturday shifts, the workers went out on strike on June 9, 1987. Over 90 workers occupied the factory grounds. After a one year struggle, the strike was ended when management agreed to rehire 24 of the union strikers, while paying the rest an indemnization settlement. Management also guaranteed the union's right to organize and function freely.

However, three months after the settlement, Lunafil's management formed a company-controlled Solidarista Association to which all new employees had to affiliate. The 24 union members were separated at two points in the production process and isolated from the 200 non-union workers. Cameras were installed to monitor the union workers. Company watchmen were constantly posted in the two unionized sections. Contact between union and non-union workers is strictly prohibited and enforced with the threat of firing. The work week for the non-union employees was increased to 68 hours. The isolated SITRALU union is barely surviving. Management pays the Solidarista affiliates slightly more than it does the 24 union members.

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FOA **Right to Freedom from Interference in Union Activity**

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• Maquiladora Sector / Slave-Like Working Conditions

Figures from the U.S. Commerce Department show that Guatemalan maquila textile and apparel exports to the U.S. grew from less than \$1 million in 1985 to \$49 million in 1988, to \$79 million in 1989, and to over \$110 million in 1990. Under the Generalized System of Preferences (GSP) and Caribbean Basin Initiative (CBI) trade benefits programs, these products entered the U.S. market either duty-free or at significantly reduced tariff rates.

With absolutely no regulation, the Guatemalan Government handed out work permits to any investor --mostly foreign-- who would open a maquila factory. The government claims that 70,000 new jobs have been created in over 250 recently-established maquila plants.

WVSTD Typical work conditions in the maquilas include being locked in the factory 12 hours a day, six days a week. Workers spend the day bent over hot sewing machinery rushing to meet their daily piece-rate quota. When large clothing orders come in from the U.S., management gives the workers stimulants so that they can work through the night without a break. By law, the normal work week is limited to 44 hours though most factories maintain a

work week averaging between 50 and 70 hours. Forced overtime is not compensated with the legally mandated overtime rate differential. The minimum wage, which is almost always the maximum wage, is supposed to be \$23 (U.S.) for 15 days work. However, this sum includes a government-regulated bonus which is rarely paid. This lowers the real minimum wage to \$16 (U.S.) for every 15 days worked. This amounts to a wage of approximately 11 U.S. cents per hour. Ninety-five percent of the workers are women, often single mothers, who are desperately poor; 77 percent of them are illiterate. These women face threats, beatings and sexual abuse from their managers. Frequent and massive firings *grade 4* keep the employees confused, frightened, unorganized and totally dependent upon the management for their very survival. The rapid turnover, of up to 25 percent of the workforce each month, allows management to avoid paying employee benefits. Workers are fired if they are pregnant, ill, disobedient, if they have missed a day, or if they cannot keep up with the production rate. *quibby* Workers are also let go whenever production orders slacken. New workers are typically hired for a 15-day trial period at half pay.

Factories in Guatemala rarely face government inspection and if they do, regulations are never enforced. From 1985 to 1990, only one business in Guatemala was fined due to workplace health and safety violations.

Attempts to form a union are met with massive firings of union organizers and sympathizers; with plant closings only to reopen under a different name with a non-union workforce; and with the establishment of management-controlled Solidarista associations.

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Right of Public Employees to Form a Union

"The denial of the right of workers in the public sector to set up trade unions, where this right is enjoyed by workers in the private sector, with the result that their 'associations' do not enjoy the same advantages and privileges as 'trade unions', involves discrimination as regards government-employed workers and their organizations." (page 45)

FOA

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• Gross Repression of Labor Rights at Fabrica Lucasan

Jesus Antonio Miranda, Secretary of Organization for the General Workers' Central of Guatemala (CGTG) stated the following:

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(ASB)
"On the highway to San Lucas there is a clothing factory, Fabrica Lucasan. It employs 900 people, most of them women. Every fifteen days the women are lined up and the managers beat them in the stomach to make sure they are not pregnant. Anyone who is pregnant is immediately fired. Anyone who is sick is also fired. The workers are locked in the factory from 8 AM to 8 PM, six days a week. They get paid \$1.50 a day. When large orders come in from the United States, the women are given stimulants so that they can work sixty hours without stopping. The workers are afraid. It is impossible to organize these maquilas.

*International Labor Rights Violations:

Right to Protection Against Arbitrary Arrest and Punishment

"The arrest -even if only briefly- of trade union leaders and trade unionists for exercising legitimate trade union activities constitutes a violation of the principles of freedom of association." (p 22)

Included in this is the guarantee of normal judicial process, that the detainee be informed of charges against him, access to counsel and prompt trial. (p. 26)*

Right to Integrity of the Person

"Trade union rights can only be exercised in a climate that is free from violence, pressure or threats of any kind against trade unionists; it is for governments to ensure that this principle is respected." (p. 19)

The ILO states that murder or disappearance of trade union leaders constitutes a serious obstacle to the exercise of trade union rights; such acts require measures to be taken by the authorities. (p. 20)

Right to acceptable conditions of work with respect to minimum wage, hours of work and occupational safety and health.

• Textile Workers Target of Illegal Firings

Case 4

The Union of Textile Workers of the Industrial Company of the Atlantic (SOTECIA) was founded in 1978 after a predecessor union had been destroyed through repression. In August, 1980, three leaders of the SOTECIA union and three activists were disappeared, and two activists were assassinated. These labor rights violations were never prosecuted.

Dis 7 = 5
Death = 2

On December 19, 1990, six union members of SOTECIA were fired illegally and without cause. Despite a court injunction won by the union that these firings were illegal, the company has not only refused to rehire the six unionists, but management is attempting to fire 29 more union activists along with five of the unions top leaders.

Management is threatening to close down the plant and move to another location. Management has told the workers to either renounce the union or face firing.

The union has already lost 40 members due to these serious threats.

The company is also arbitrarily holding back the wages of the union's leaders for weeks at a time.

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All Attempts to Organize the Maquilas Have Failed

Juan Alfaro, General Secretary of the CUSG, told us that "all attempts to organize in the textile maquila industry have failed." Alfaro went on to say that: "every attempt at organizing has been met with massive firings. Nor have the courts functioned at all to protect the workers."

The CGTG Secretary of Organization said they have made "eight attempts to enter the textile maquilas to organize --every effort has failed. In the maquila, no laws are obeyed."

The UNSITRAGUA federation informed us that they had "initiated seven organizing drives in the maquilas, all of which were failures."

Even the Guatemalan Minister of Labor admitted that there were "problems with the textile industry, where working conditions are not very good." The Minister was "concerned that the maquilas are not permitting union organizing. We need to control work permits more effectively."

The Government's Human Rights Ombudsman referred to organizing drives to improve working conditions in the maquila sector as a "necessary struggle."

**International Labor Rights Violations:*

Right to Protection from Discrimination or Retaliation Against Union Activities

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• Bottling Union Destroyed

885 At the Cavisva Bottling Factory negotiations between the STICAVISA union and management broke down in January 1990 over job security. Every year management illegally fired 200 to 300 employees and hired new workers in their place. Large numbers of workers were periodically laid off for two to three month periods without notice.

Not only was it impossible for the union to function under such instability, but workers could no longer stand the constant fear and uncertainty of being fired. On January 31, 1990, 900 workers went on strike and occupied the factory. After threats did not work, management called in 1500 National Police to forcibly remove the strikers on June 3, 1990. New workers were brought in and the company has resumed production with a non-union workforce.

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The IUF Central American Regional Director, Rodolfo Robles, estimates that 15 unions were destroyed in Guatemala last year.

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• Management Uses Solidarista Associations to Replace and Destroy Unions

The Guatemalan Solidarismo Union claims there are 300 solidarista associations in Guatemala with 80,000 members. The Solidarismo movement is based on management-worker cooperation. Five percent of the worker's salary goes into the association, while management, which is responsible for 5 to 10 percent of the association budget, has illegally taken "their" contribution from the workers' pension and severance pay fund.

Solidarismo organizations specialize in providing small loans, hosting parties and sports events, and operating discount convenience stores for the members.

Solidarista associations have typically been used to break unions.

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6 • **Coffee Workers Illegally Fired**

On March 1, all fifty-seven union members at the coffee farm, Finca La Torre, were illegally fired. The fired unionists belonged to the Guatemalan Trade Union Unity (UNSI TRAGUA) federation.

**International Labor Rights Violation:*

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• **Government Customs Workers Fired**

On March 5, 800 unionized customs workers belonging to the General Confederation of Guatemalan Workers (CGTG) were fired.

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7 • **State Workers Not Free to Organize**

The Executive Council of the 60,000-member National Federation of State and Government Employees (FENASTEG) informed us that the government is increasingly making use of temporary workers who cannot be union members and who are not covered under the collective contracts. Forty thousand temporary workers earn 135 quetzals a month. This practice is illegal. The state is required by law to make temporary workers full time employees after a prescribed period of time and to cover them under the collective contract.

Nor is the state complying with the union's demand for automatic dues check off. It takes up to two years for

authorization, and in the case of state workers, the government often proceeds even more slowly.

The average wage for state workers is 500 quetzales a month. Overtime compensation is never paid. FENASTEG told us that their health coverage is totally inadequate and does not include their children.

They are denied the right to organize. Union work must be done after hours and outside of the workplace. FENASTEG's leaders are under constant surveillance.

***International Labor Rights Violations:
Right of Public Employees to Form a Union**

"The denial of the right of workers in the public sector to set up trade unions, where this right is enjoyed by workers in the private sector, with the result that their 'associations' do not enjoy the same advantages and privileges as 'trade unions', involves discrimination as regards government-employed workers and their organizations." (page 45)

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• Former Union Leader Attacked

On April 5, Otto Ivan Rodriguez, a former leader of the largest public sector union in Guatemala, the Union of Workers of the National Electricity Institute (STINDE), was abducted from a bus stop in Chiquimula by the National Police. He was imprisoned at Centro Preventivo in Zona 18 in Guatemala City. During interrogation Rodriguez was asked "if he was a communist" and "if he was one of those who painted union slogans in the streets." Heavy rubber straps were placed around his neck. Rodriguez was beaten in the face, kicked in the abdomen and kicked in the left eye. He was burned on his back with cigarettes.

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Rodriguez, who stepped down as STINDE's General Secretary two months ago, is being held in a Guatemala City prison on charges of armed robbery.

Leaders of the General Workers' Central of Guatemala (CGTG) observed that this "is part of the union repression that exists in the country under the Administration of President Serrano."

The detention and torture of the ex-STINDE leader was condemned by the Public Service International (PSI), the International Union of Food and Allied Workers Associations (IUF) and the International Federation of Chemical, Energy and General Workers' Unions (ICEF). The STINDE union has opposed the government both on privatization and on electrical rate increases, such as the 50 percent increase announced in April. STINDE has called upon the public not to pay the increased rate.

In September of 1989, the entire Executive Board of STINDE was forced to resign due to serious death threats.

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Included in this is the guarantee of normal judicial process, that the detainee be informed of charges against him, access to counsel and prompt trial. (p. 26)*

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=61
• Social Security Workers Attacked

After a direct threat from President Serrano, a strike by the 5,000-member union at the Guatemalan Institute for Social Security was attacked on February 26 by Government security forces who arrested 60 of the strikers, charging them with "sabotage", "property damage" and participation in an "illegal strike." Under threat, striking unionists were forced to resume work and the four week-old strike ended without a wage increase or other gains.

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Right to Hold Public Meetings and Demonstrations

The ILO states that "public authorities should refrain from any interference which would restrict...the right to organize public meetings...[which] constitutes an important aspect of trade union rights." (p.33-35)

(10)
• Beer Workers Union Leaders Illegally Fired

One of the oldest and most important IUF-affiliated unions in Guatemala has been under sustained attack. The Union of Workers of the National Beer Brewery in Quetzaltenango (SITRACERNACSA) has survived for 43 years in one of the largest conglomerates in Guatemala, the Castillo Company. The Castillos are one of the "14 families" that control Guatemala's wealth. The Castillo Company controls 50 percent of Guatemala's financial industry and has a monopoly on beer production, as well as interests in cattle, wheat, agribusiness, supermarkets, soft drinks, fast foods and several bottling plants. Castillo employs over 50,000 workers. It is a non-union company which only tolerates Solidarista associations it can control.

Yet the 108 member beer bottling union, SITRACERNACSA, has not only survived inside the Castillo dynasty, the beer workers' union has played a central role in creating a western regional organization of unions. It has helped to organize liquor, textile, metal workers and peasant associations.

If the SITRACERNACSA union is destroyed not only will the only union foothold on the Castillo Corporation be lost, but the union base for the entire western region of Guatemala will also be destroyed.

The National Beer Company, which employs 2,000 workers, has divided production into 14 subsections or separate companies, isolating and prohibiting contact between the 108 bottling unionists and the rest of the non-union workforce. Special armed police are posted at the entrance to the bottling section. Management constantly monitors the union's leaders. Company security guards use walkie-talkies to radio ahead any of their movements. They are also victims of constant physical threats, intimidation and threats of firing. Soldiers from a nearby barracks were allowed into the company as an exercise in learning to conduct a survey. The "training exercise" focused on "studying" the structure of the union and the role it plays in the western region. that 1

Since these threats were not sufficient, management has now begun to fire key union activists. Two were fired in August and union leaders Osvaldo Roman Saquich and Nazario Gómez López were illegally fired on January 14 while they were attending an IUF union workshop. In May 1991, Saquich and Gómez López were the targets of several death threats. THH10
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• Widespread Death Threats

The Executive Council of the labor federation Union Unity of the Guatemalan Workers (UNSI TRAGUA) reports that 90 percent of

their federation's ⁺¹⁰¹ union leaders have been the target of death threats during the month of May 1991.

Climate of Deadly Human Rights Violations Carried Out with Total Impunity Drastically Impedes Union Organizing

Americas Watch estimates that during President Vinicio Cerezo's five-year term in office, which began in 1986, 2,429 civilians were the victims of extrajudicial assassinations and 559 people disappeared. During the Cerezo period not a single member of the Armed Forces or the police was brought to court and prosecuted for any of these murders. *not vice versa*

The Catholic Archdiocese Human Rights Office estimated that 1300 people were extrajudicially murdered in 1990. The ICFTU's Latin American regional organization, ORIT, documented similar figures. Reporting on the ORIT findings, a recent issue of the IUF News Bulletin stated: "ORIT reported nearly 600 extrajudicial deaths in Guatemala in the first six months of 1990. Many of the victims have been trade unionists and peasant leaders."

100's? too vague to code death = 1 (yes)

The Guatemalan Government's own figures, documented by the Human Rights Ombudsman, declare that 599 civilians were the victims of extrajudicial execution in 1990 and that 140 people disappeared. The 1990 U.S. State Department's Country Report on Human Rights in Guatemala states:

"Due primarily to a lack of will, authorities did not stem growing violence during 1990. Reliable evidence indicates that security forces and civil patrols committed, with almost total impunity, a majority of the major human rights abuses."

In December of 1990 the U.S. government suspended deliveries of military assistance to Guatemala --totalling \$2.8 million-- citing "lack of commitment of the government of Guatemala to protect human rights".

The Catholic Church told us that the situation is getting worse. And the independent Center for the Investigation, Promotion and Study of Human Rights (CIEPRODH) has documented 139 extrajudicial executions, 25 attempted assassinations and 52 disappearances in the first three months of 1991.

**International Labor Rights Violations:
Right of Public Employees to Form a Union**

"The denial of the right of workers in the public sector to set up trade unions, where this right is enjoyed by workers in the private sector, with the result that their 'associations' do not

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death = yes
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code

enjoy the same advantages and privileges as 'trade unions', involves discrimination as regards government-employed workers and their organizations." (page 45)

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• Threat of Firing Could Mean Starvation

A recent ORIT delegation to Guatemala concluded that many employers have used dismissals to block union organizing. Every union we spoke with mentioned the threat of being fired as one of the strongest weapons the employers used against them. In view of the extraordinary numbers of political assassinations and disappearances, it was difficult at first to understand why being fired was the foremost concern of the unionists.

But in Guatemala, as the Government's Human Rights Ombudsman told us, where 84 percent of the people live in poverty without drinking water, sewage disposal or adequate food, losing ones job means total misery for the entire family. The U.N. Economic Commission for Latin America and the Caribbean estimates that only 37 percent of the Guatemalan workforce has full-time employment, leaving 43 percent of the workforce unemployed and the rest eking out an existence in the informal sector.

Even if you are employed, the Government's National Institute for Statistics shows that 88 percent of agricultural workers and 60 percent of manufacturing and service industry workers earn less than 200 quetzals a month, or under \$40. The Guatemalan Institute of Economic and Social Investigations estimates that the average sized urban family of five needs a minimum of 37.50 quetzals a day to survive, which is four times the minimum wage. Per capita income in Guatemala is approximately one fifteenth that of the U.S.

One of the demands of the striking Social Security Workers Union --before the strike was broken by the intervention of government security forces-- was for reforms in the nation's public hospitals. The hospital union told us that 80 percent of

the population has no access to medical care. And if you do enter a state hospital you have to bring your own food. If you have broken a bone, you have to buy the plaster for your cast before anyone will attend to you.

The situation in the countryside is even worse. Well over 400,000 peasant families are without land. In what the Guatemalan Catholic Bishop's Conference referred to as a "sinful and absolute social structure", 70 percent of the country's arable farmlands are controlled by 2.2 percent of the landowners. The Archbishop of Guatemala, Monsignor Penados, observed that "the landowners must abandon their selfishness and share their wealth." The Committee for Campesino Unity (CUC) recently reported that sugar cane workers at the Finca Misqueña were being paid only four quetzals, or 80 cents (U.S.), for a 12 hour day -- this despite the fact that after a four year struggle, agricultural workers have won a 10 quetzal daily minimum wage. Few landowners comply even with this. In rural areas only five percent of peasant families have electricity and less than 15 percent have access to medical care or clean drinking water.

If you lose your job in Guatemala you quickly slide toward total misery.

**International Labor Rights Violation:*

Right to acceptable conditions of work with respect to minimum wage, hours of work and occupational safety and health.

WSTD