

Newsletter of U.S. Labor Education in the Americas Project, an ILRF Program



Fall 2015

Fighting for worker justice in the global economy

Dear Friends of USLEAP@ILRF,

The summer and fall of 2015 have been an exceptionally busy time for USLEAP@ILRF. We made significant advances in trade justice advocacy and took an important step towards strengthening a coalition of U.S.-based organizations to stand in solidarity with Latin American trade unionists under threat.

Throughout the year USLEAP@ILRF worked closely with Peruvian agro-export and textile unions to file a complaint against the government of Peru for violating labor standards in the U.S.-Peru Trade Promotion Agreement. The U.S. Department of Labor accepted the complaint in September and launched a six month investigation of labor rights abuses in Peru's textile and agricultural export sectors. The complaint is a first for USLEAP and ILRF and we were heartened to see positive media coverage raising questions about rewarding Peru, Mexico and other labor rights violators with new market access under the proposed Trans-Pacific Partnership trade deal.

Our other fall highlight was a week-long visit from Iris Munguía, Women's Secretary of Honduran union FESTAGRO and the Coordinator of COLSIBA – the Coordinating Body of Latin American Banana and Agro-Industrial Unions, a coalition of unions representing 55,000 workers across eight countries. Iris not only directs the largest transnational federation of private sector unions in the Americas, she's also leading a majority male work force. While in the U.S. she met with members of Congress, the U.S. Trade Representative's Office, and a nascent coalition of human rights, labor and faith-based organizations eager to support banana workers' struggles to protect their rights and help put an end to the intimidation trade unionists continue to endure, especially in Guatemala and Honduras.

USLEAP and Iris convened a strategy discussion in Washington, D.C. to strengthen a U.S.-based solidarity network for COLSIBA and its union affiliates. The network will build on an in-depth industry analysis that I'm developing with Caitrin McKee, our Stephen Coats Memorial Fellow. In mid-October, Caitrin traveled to Honduras and Guatemala to learn about the impact of recent banana industry trends on working conditions, our union partners' priorities, and opportunities for international solidarity work. Stay tuned for more calls to action to support banana workers. We hope you'll join us!

This newsletter includes stories on these recent accomplishments, plus two ongoing struggles in which USLEAP has supported workers demanding respect for their right to join a union. We hope you enjoy reading about all that we've accomplished together!

In solidarity,

A handwritten signature in black ink, appearing to read 'Eric'.

Eric Gottwald
Legal and Policy Director
International Labor Rights Forum

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Petroleum Company Blocks Union Vote Despite “Equitable” Certification

In Puerto Gaitán, Meta, Colombia, petroleum workers who joined the Unión Sindical Obrera (USO) in June are fighting for the union’s recognition by [long-time labor rights abuser](#) Pacific Exploration and Production Corp (formerly known as Pacific Rubiales, or “Pacific”), Colombia’s fifth largest corporation.

Since then, the company’s local subsidiary has [refused to engage](#) in contract negotiations, which gave workers the legal right to [vote on a strike in August](#). But the company [prevented workers from assembling for the vote](#) during the 20-day period allowed. The workers’ fate is now in the hands of the Colombian Ministry of Labor, but the USO is not optimistic given the Ministry’s history of favoring business interests over workers’ rights.

Pacific claims to honor workers’ freedom of association, emphasizing that over 50% of its workers belong to an organization called the Unión de Trabajadores de la Industria Energética Nacional (UTEN). Indeed, the UTEN’s high membership enabled Pacific to be certified as “[socially responsible](#)” by an organization called [Equitable Origins](#) (EO) in late 2014. But it’s worth examining just how “free” workers’ association to the UTEN really is.

USLEAP sent a letter of protest to Equitable Origins in December 2014, in coordination with a formal AFL-CIO complaint citing Pacific’s [well-documented history](#) of repressing workers’ rights. In fact, the USO was forced out of Pacific’s oil fields at gunpoint in 2011, after it negotiated a collective bargaining agreement for workers. Over

3,000 USO members were [fired and blacklisted](#), and many received death threats (a criminal complaint filed by USO against Pacific is still ongoing).

Following USO’s exile, Pacific forced workers to join the UTEN (or lose their jobs), a tactic designed to protect company interests and prevent independent union organizing. In early 2015, the USO was able to [re-open an office in Puerto Gaitán](#) with support from international accompaniment organizations like USLEAP ally, Paso Internacional. But in July 2015, police and military officials visited USO’s regional office at midnight – in vans marked with the Pacific logo. Meanwhile, 17 direct employees who had joined the USO have left due to company threats and dismissals, and the USO estimates that Pacific’s workforce has plummeted from its 2013 peak of 14,000 in 2013 to only 3,150.

Repression of Rights Defenders Continues

Community activist and former Pacific worker, Héctor Sánchez Gómez, has repeatedly suffered [retaliation](#) for his continued advocacy on behalf of Pacific workers. Since 2011, Héctor has been [falsely accused](#) of criminal activities in an attempt to smear and neutralize him. Even more disturbing, Héctor received a [call on June 1, 2015](#) informing him that an assassin had been paid roughly \$3,600 to kill him. (Colombia saw [34 human rights defenders assassinated](#) in the first six months of 2015.)

While the Ministry of Labor did push Pacific to agree to a meet-

ing with the USO in August, the company continues to cite a lack of formal censure by the Ministry as evidence that it complies with the law. In October, the USO announced that it was filing an additional complaint with the Ministry, which is obligated to oversee an arbitration panel, and called for international solidarity with their cause. The Ministry of Labor, however, absolved Pacific of wrongdoing following past complaints, and it has since [neglected to fulfill its promises](#) to improve labor law enforcement as part of the U.S.-Colombian Free Trade Agreement signed in 2011.

Equitable Origins and the Ministry of Labor Must Act

Pacific’s union-busting clearly violates both Colombian law and the criteria of its certification by Equitable Origins. Since [last year’s complaint](#), EO has conducted [an internal review](#), published [the company’s](#) and [auditor’s](#) responses to its allegations, pledged stronger auditor training, and modified its standards to emphasize non-interference of employers in their workers’ union affiliation decisions. But in April 2015 it [announced](#) that a decision on de-certification would be delayed until after a verification audit could be completed over the summer.

Following an inquiry from USLEAP and Paso Internacional on September 3rd, EO stated that the audit occurred in August and promised to share results “in the coming weeks,” but it had not provided information as of early November. EO’s slow response to

complaints calls into question how reliable these social certification bodies can be in upholding workers' rights. And USO workers are not optimistic that they will prevail over the company through the arbitration panel process.

Equitable Origins must not serve as a smokescreen for Pacific's anti-union behavior. While EO delays publicizing results of its audit, and the Ministry of Labor fails to hold Pacific accountable, Pacific continues to tout its "social

responsibility" and further undermine legitimate union organizing. USLEAP will continue to follow the situation and support efforts to pressure EO and the Ministry of Labor to meet their obligations to workers.

Honduran Workers Threatened for Organizing on Chiquita Plantation

Two-thirds of bananas sold in the United States come from Central America, where workers spend 10 to 15 hours a day toiling to provide your local grocery store with its top-selling fruit.

While the banana industry has cleaned up its act in recent decades (Chiquita once funded [Colombian paramilitaries](#), for example), banana plantations in Latin America continue to systematically violate workers' rights. Employees who try to improve their working conditions by joining a union are [routinely harassed, fired, or threatened](#) with violence.

On September 3, 2015, the president of the Honduran union STAS (Sindicato de Trabajadores de la Agroindustria), Tomás Membreño Pérez, was followed by an unknown vehicle while traveling with a fellow union leader. [Anonymous messages](#) sent to his Facebook account have detailed his whereabouts and threatened to kill him, his wife, and his son for trying to organize workers. Back in the spring, Pérez had received intimidating phone calls, including one warning him to "be careful with what you're doing, or you'll regret it."

Workers at a Chiquita-owned plantation in Honduras named Finca Santa Rita have struggled



Tomás Membreño Pérez, president of the Honduran agro-industrial trade union, STAS, has received death threats in recent months. Source: Solidarity Center

for years to resolve conflicts with management and gain secure recognition of their membership in Pérez's union. Past abuses committed on this plantation were cited in a [DR-CAFTA complaint](#) filed by the AFL-CIO with the U.S. Department of Labor (DOL) in 2012. A DOL [report](#) released in March 2015 substantiated the violations reported by workers, including failure to pay the minimum wage and illegal reprisals against union organizers.

The recent threats against Pérez may also stem from his work with the human rights network [ACI-PARTICIPA](#), which documented nine violent attacks against Honduran trade unionists between January and September of 2015.

In an October interview with USLEAP, Pérez said the authorities were not investigating the threats against him, leaving him – and his wife – to resort to tactics like varying their schedules and travel routes to prevent being victimized themselves. Just last year, trade unionist [José María \(Chema\) Martínez](#) fled the country after receiving death threats for denouncing the treatment of workers at Finca Santa Rita, then known as Tres Hermanas.

USLEAP supporters may remember that Tres Hermanas lost its Rainforest Alliance certification in late 2013 after labor rights groups [launched a campaign](#) highlighting its [history](#) of labor rights violations.

In February 2015, workers were

hopeful when Chiquita [purchased and renamed](#) the plantation and claimed to welcome their participation in the union STAS.

More than eight months later, however, management refuses to recognize the union, and the Ministry of Labor has used [bureaucratic tactics](#) to prevent the registration of STAS' collective contract. This behavior violates [Chiquita's 2001 agreement](#) with the transnational union federation COLSIBA, which represents banana workers throughout the region. Meanwhile, STAS reports that the company [lowered salaries](#) by 38% in August – from about \$110 a week to only \$68. According to Pérez, the Ministry of Labor has confirmed that the company owes employees nearly \$45,000 in back wages, while the Solidarity Center estimated in September that the amount was [over \\$50,000](#).

Finca Santa Rita claims to have negotiated the lower rate with another “union,” SITRAEBASAR, which was [illegally created by company management](#) and lacks a Board of Directors or even officially registered members. Despite

these irregularities, the Ministry of Labor agreed to mediate negotiations over a collective contract for SITRAEBASAR. As many USLEAP allies and supporters know all too well, creating “yellow” unions is a common practice for companies in Central America. At an October COLSIBA forum attended by USLEAP, workers across the region reported being pressured to renounce a union and join a company-controlled organization – or face losing their jobs.

Meanwhile, employees of another Honduran Chiquita supplier, Finca Tropical, have experienced similar [violations](#) since at least 2014. Finca Tropical has also established its own organization (“Trato Justo,” or “Fair Treatment”) as an alternative to STAS, and it even used threats to force workers to participate in a [work stoppage](#) protesting the union in July.

Thanks to support from the Honduran agricultural trade union federation FESTAGRO, and a [letter writing campaign](#) led by our European ally, EUROBAN, the Honduran Ministry of Labor at-

tempted to fine Finca Tropical for its abuses in August. Unfortunately, workers say that when inspectors showed up, [management simply refused to let them in the door](#).

Although neither farm is currently certified by Rainforest Alliance, bananas from Santa Rita continued to sport the Rainforest sticker as late as August. The abuses that have taken place on these Honduran plantations are stark reminders that even when a company claims to be socially responsible, we cannot assume that workers are being treated fairly.

Right now, Central American unions are moving forward on a new strategy to hold banana companies – and those who certify them as “responsible” – accountable to their public commitments to workers' rights. In October, USLEAP team members met with union leaders in Honduras, Guatemala, and Washington, D.C., to develop plans for an international campaign pressuring companies to honor their rhetoric with real action. As the campaign develops, stay tuned for actions that you can take in support.



Workers at a plantation in Honduras that supplies bananas to Chiquita.

What Iris Munguía's Leadership Says about COLSIBA

You might ask how it is that a Latin American union federation with 73% male members came to have such strong women leaders in its ranks. It came from foresight and long-range strategic thinking about how they could cultivate women's leadership. More than a decade ago the unions started forming women's committees and electing women's issues representatives. This enabled Iris Munguía and other women leaders like her to come up through the ranks and increasingly take on leadership roles within the union federation. It has also resulted in collective bargaining agreements with clauses that women pushed for, such as the right to medical leave to care for a sick child. These and other advances are wins for workers that COLSIBA's women leaders helped secure through the very collective bargaining process that is being threatened today.

U.S. DOL accepts complaint filed by USLEAP@ILRF, Peruvian unions

In late September, the U.S. Department of Labor (DOL) formally accepted a [complaint](#) filed by USLEAP@ILRF, Peru Equidad, and Peruvian unions against the Government of Peru for violating labor rights provisions of the 2009 U.S.-Peru Trade Promotion Agreement (PTPA). Peru will now be subject to a six-month DOL investigation to determine the extent of violations in its garment, textile, and agricultural export sectors, which employ hundreds of thousands of workers producing billions of dollars of goods for the U.S. market.

The origins of the complaint date back to a 2012 trip taken by USLEAP founder Stephen Coats and Eric Gottwald to Lima, Peru, for a two-day conference on precarious work and other labor abuses in Peru's textile and garment sector. At the event, workers testified about how they have worked for years under a series of consecutive 15 and 30-day contracts making clothing for large U.S. and European apparel brands, including Nike and Adidas. The workers are employed under a "special" labor regime called the Non-Traditional Export Promotion Law (Decreto 22342) that exempts workers from key parts of the general labor code, allowing employers to hire them on an unlimited number of consecu-

tive short-term contracts. The tens of thousands of workers employed under this law are effectively denied job security, health and pension benefits, and their fundamental rights to freedom of association and collective bargaining.

Stephen and Eric left Peru impressed by the workers' determination to claim their rights and determined to support their struggle. They followed up with union leaders and their allies in Peru who were eager to file a complaint to challenge these abuses as violations of the labor chapter contained in the PTPA.

Through eight emblematic case studies, the complaint documents how the Government of Peru is failing to enforce its labor laws in the agro-export and textiles sectors. Major Peruvian employers in both sectors violate Peruvian labor law with virtual impunity, dismissing workers for union activity, employing workers on fraudulent contracts, and failing to pay legally-mandated bonuses and benefits. Even in cases where labor inspectors have found violations, fines are too low to deter employer misconduct and often go unpaid.

In addition to alleging that Peru is failing to enforce its labor laws, the complaint argues that Peru's Non-Traditional Export Promotion

Law fails to comply with minimum standards on freedom of association adopted by the International Labour Organization (ILO). The ILO itself has repeatedly asked the Government of Peru to amend the law and even multinationals like Nike, Adidas, and New Balance have spoken out in favor of amending the law to protect workers' right to organize.

Guillermo Horna, Protection Secretary of the Federación Nacional de Trabajadores Textiles de Peru (FNTTP), [says](#) that these "massive firings of union members are constant and ongoing" and are "not compliant with the labor chapter [of the free trade agreement] regarding unions and collective bargaining rights as established by the International Labour Organization."

USLEAP welcomes DOL's decision to accept the complaint and will work with our union allies to provide updated information on highlighted cases. Once the investigation is complete, DOL will publish a report with its findings and recommendations. We look forward to working with our allies to ensure that both governments take the necessary steps to bring Peru into compliance with its obligations under the PTPA.

Justice delayed: U.S. DOL report finds Honduras violates CAFTA labor standards



In February 2015, nearly three years after the AFL-CIO and Honduran unions (including longtime USLEAP partner FESTAGRO) filed a Central America Free Trade Agreement (CAFTA) [complaint](#) against the Government of Honduras, the U.S. Department of Labor (DOL) finally issued a [report](#) confirming widespread, major labor rights abuses in key export sectors of the economy. The report highlighted Honduras' failure to enforce its own labor laws, including dozens of cases where the Ministry of Labor failed to issue fines against employers who violated laws relating to freedom of association, the minimum wage, health and safety, and child labor.

While the AFL-CIO [welcomed the findings](#), it expressed disappointment that the report was published over two years behind schedule and that the U.S. government was failing to effectively enforce the labor standards contained in CAFTA and other free trade agreements.

Since the publication of the report, the U.S. DOL has engaged the Government of Honduras to develop a monitoring and action

plan. Rep. Marcy Kaptur (D-OH), COLSIBA Coordinator Iris Munguia and Rep. Jan Schakowsky (D-IL) discussed labor rights in Honduras, including implementation of the CAFTA monitoring and action plan.

plan to address the weakness of its labor monitoring and inspection regime. Within twelve months (by February 2016), the U.S. Government is supposed to evaluate Honduras' progress and recommend further measures, including further dialogue and, eventually, a possible arbitration process that *might* result in sanctions.

In late October, USLEAP, the AFL-CIO and the Coordinator of COLSIBA, the Coordinating Body of Latin American Banana and Agro-Industrial Unions, Iris Munguia, met with congressional offices and the U.S. Trade Representative. The meetings focused on pushing for effective implementation of the Honduras labor monitoring and action plan, and the need for clear consequences if the Honduran government fails to meet specific short-term objectives.

The U.S. DOL's delayed public response to the Honduras complaint is yet another reminder that, to date, the U.S. government has failed to effectively enforce the la-

bor rights standards in its own free trade agreements. For example, the [CAFTA complaint](#) filed against the government of Guatemala in 2008 is still in the "dispute settlement" phase. In November, a [report](#) by the U.S.'s own Government Accountability Office (GAO) was harshly critical of the U.S. Trade Representative and the Department of Labor's failure to systematically monitor and enforce labor standards in existing trade agreements.

At a time when the Obama Administration is touting the "strongest ever" labor protections in the proposed [Trans-Pacific Partnership](#) (TPP), USLEAP and our allies will continue to emphasize the hollowness of past promises to enforce labor standards in trade agreements. Without *well-enforced* labor standards, trade will continue to facilitate a race to the bottom in wages and working conditions, not just in places like Honduras, but across the globe.