

A VALENTINE'S DAY REPORT:

Worker Justice and Basic Rights

on

Flower Plantations

in

Colombia and Ecuador

Prepared by

The U.S./Labor Education in the Americas Project and
The International Labor Rights Fund

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Executive Summary

Colombia and Ecuador Dominate U.S. Flower Market

- Colombia is the largest flower exporter to the U.S., followed by Ecuador. Approximately 60% of all flowers sold in the U.S. come from Colombia. A third of Ecuador's yearly production is exported to the U.S. for Valentine's Day.

Poverty Wages, Long Hours, Unhealthy Conditions, Sexual Harassment Afflict Workers

- Workers earn poverty-level wages, making less than half of what is needed to meet basic needs
- 55% of women workers in Ecuador's flower plantations have been the victims of some form of sexual harassment in the workplace
- 66% of Colombian and Ecuadorian flower workers suffer from work-related health problems
- Pesticide abuse is rampant---flower workers experience higher-than-average rates of premature births, congenital malformations, and miscarriages
- 70-80 hour work weeks are common in the high season.

Core Worker Rights Denied

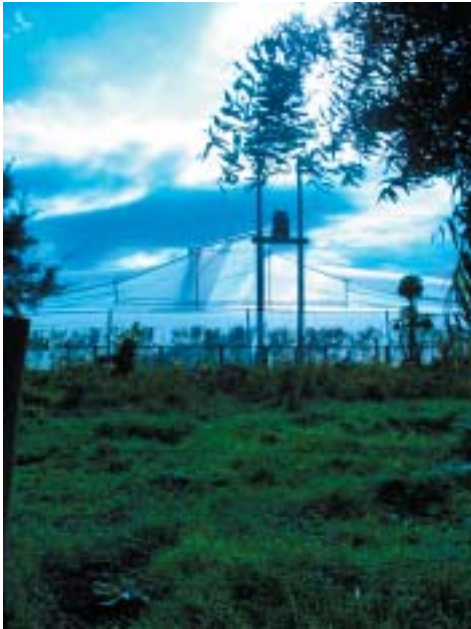
- Core worker rights are not respected. No new unions have been formed in Ecuador in years and no independent unions have been able to win a collective bargaining agreement in Colombia's flower sector.
- The most important worker organizing effort in the Colombian flower sector in the past five years is currently in the process of being crushed by the country's largest flower owner and exporter, U.S.-based Dole.

Flowers Enter U.S. Duty-Free Under the Andean Trade Preference Act, Benefits That Are Subject to Taking Steps on Worker Rights

- Over 95% of Colombia and Ecuador's flower exports enter the U.S. duty-free under the Andean Trade Preferences Act (ATPA). Flowers are one of the biggest recipients of ATPA benefits outside of petroleum. By law, ATPA requires qualifying countries to take steps on worker rights. The ATPA program was extended by Congress in December 2006 for six months and renewal will be on the Congressional agenda later this year.

I. Industry Overview

Colombia is the largest flower exporter to the U.S., followed by Ecuador. Approximately 60% of all flowers sold in the U.S. come from Colombia. U.S. consumers spend over \$18 billion annually on flowers, which are increasingly sold in large grocery store retail chains rather than neighborhood florists.



Colombia Overview

Over 80% of the flowers produced in Colombia are exported to the U.S. Three-quarters of these flowers are grown near Bogotá, while most of the remainder are produced outside of Medellín.¹

In 2005, the Colombian flower industry provided 111,000 jobs directly, and an additional 94,000 indirectly. According to Asocoflores, the Colombian Association of Flower Exporters, over half of the workers directly employed by flower exporting companies are between 30 and 49 years old, and 60% are female.

Both national and multinational companies have invested in the flower industry. U.S.-based Dole Fresh Flowers, a subsidiary of the Dole Food Company, is the largest flower plantation owner and exporter in Colombia, and the biggest exporter of flowers from Latin America.

Ecuador Overview

Over 70% of Ecuador's flower exports go to the U.S. A third of Ecuador's yearly production is exported to the U.S. for Valentine's Day.² Flowers are Ecuador's 5th largest export. The flower industry employs nearly 40,000 workers directly and another 15,000 jobs are created indirectly.³

1) Five holidays account for 95% of all cut-flower purchases. By percentage of retail dollars, the top five holidays for buying flowers are: Valentine's Day (36%); Mother's Day (27%); Christmas/Hanukkah (15%); Easter/Passover (9%); and Thanksgiving Day (7%).

2) "Ecuador Fears Valentine's Flower War," BBC News, January 29, 2003.

3) FUNDESS.

II. Working Conditions and Health Issues

Poverty-Level Wages

The majority of Colombian flower workers receive no more than the minimum wage, about \$6 a day, which covers less than half of what a family needs to meet basic human needs.⁴ A similar situation exists in Ecuador, where the minimum wage is about \$5.30 a day.

Wages have deteriorated in recent years. Flower workers in Colombia have often relied on overtime pay to compensate for insufficient wages, but a 2002 law extended daily working hours and reduced overtime pay.⁵ Flower workers have reported that they receive an average of \$23 to

“In the high season they double our workload. We get to work but we don’t know when we get to leave.”

-male flower worker

“I have had problems with my kidneys and with my feet. Sometimes we have to stay 14 or 15 hours on foot and are not allowed to use the bathroom.”

-female flower worker

\$27 less per month as a result of this law.⁶

Obligatory overtime and unpaid wages are common. According to a report from the Colombian non-governmental organization Cactus covering the period of January 2000 through June 2004, the most common reason for Colombian flower workers to seek legal advice was failure to pay salaries, including unpaid overtime.

The second most common reason was unfair dismissal.

Pesticide Abuse

Two-thirds of Colombian and Ecuadorian flower workers suffer from work-related health problems, according to the Victoria International Development Education Association. The improper use of chemicals in the flower industry has been the cause of both short and long term health problems for flower workers. Approximately 20% of pesticides used in Colombian flower production are known carcinogens or toxins, and have accordingly been either restricted or prohibited in North America and Europe. In Ecuador, a recent study found



4) DANE. “Encuesta Nacional de Hogares.” 2001

5) Reported by Corporación Cactus. “Detrás de las Flores...Derechos de Las y Los Trabajadores.”

6) Reported by flower workers participating in workshops carried out by the Central Unitaria de Trabajadores (Colombia’s largest trade union central).

that flower companies use about 30 different chemicals, in addition to fertilizers.⁷

According to Cactus, when unprotected workers are exposed to pesticides, reactions including headaches, vomiting, and fainting can be immediate. Other short term effects include rashes, impaired vision, and skin discoloration. Regular exposure to these chemicals can lead to asthma, neurological problems, congenital malformations, miscarriages, and stillbirths. According to the Colombian National Institute of Health, flower workers experience higher-than-average rates of premature births, congenital malformations, and miscarriages.

Other Health Impacts

Flower workers often report that extremely heavy workloads result in repetitive stress injuries, including carpal tunnel. Many female flower workers report ruptured varicose veins and kidney problems from standing for long hours and restricted bathroom use.

Women's Rights Violations

Women face additional challenges in the flower industry, particularly in the areas of reproductive rights. Obligatory pregnancy testing is routine. In a poll of almost 1400 flower workers, Cactus found that 85% of the female workers had been required to undergo a pregnancy test as a prerequisite for employment. Other women were asked to present proof of sterilization. Cactus also reports that each year hundreds of women flower workers visit their office after being illegally fired as a result of pregnancy.

A 2005 study by the International Labor Rights Fund and Ecuadorian researchers found

A Day in the Life of a Flower Worker

In low season, workers at the plantation regularly work about 50 hours per week. The high season workweek is often 70-80 hours. Men report waking up around 5 a.m. to get on the bus. They arrive at the plantation, put on their work clothes, and must be in position when the bell rings at 6:15 a.m. Women report waking up as early as 3 a.m. in order to finish housework, feed their children and prepare them for school. The post-harvest section, in which flowers are sorted by quality and color, employs only women, while the cultivation and packing sections are more male-dominated.

The number of hours worked daily depends on the worker's department, but a typical worker will stay at work during the low season from 6:15 a.m. until 3 p.m. Monday through Friday, and 6:15 a.m. to 1 p.m. on Saturdays. They are allowed 30 minutes for lunch and at least one 15-minute break. During the high season, workers report working 14 or 15-hour days. They begin work at 6:15 a.m. and often stay until 10 or 11 p.m.. At the end of the day the workers return home in buses, then start all over again the next day.

7) The Oxfam investigation found that all of the workers interviewed had suffered illnesses due to exposure to agrochemicals (Oxfam Chile 2004).



that more than 55% of women workers in Ecuador's flower plantations had been the victims of some form of sexual harassment in the workplace. Nineteen percent were forced to have sex with a co-worker or superior. Only 5% of the women workers who had been victims of harassment denounced these aggressions because they had been threatened, were afraid of being fired, or unaware of their rights.⁸

Child Labor

The ILO evaluated the prevalence of child labor on Ecuadorian flower plantations in early 2000. It estimated that there were 48,000 children working in floriculture in the two provinces surveyed.

8) Mena y Proaño, 2005

III. Core Worker Rights in the Colombian Flower Industry

The Colombian flower industry is characterized by a lack of respect for core worker rights, most fundamentally freedom of association, the right to organize, and the right to bargain. The Colombian flower industry has a long history of vigorous and effective opposition to the formation of independent democratic unions, using a variety of tactics to block union organizing, including illegal firings, threats to close plantations where workers are organizing, anti-union discrimination, black-listing, and bringing in company-favored unions. The flower industry's opposition to worker organizing is aided and abetted by the Colombian government, which frequently acts in collusion to deny workers their basic rights. *As of February 2007, independent flower unions have been unable to win a single collective bargaining agreement despite nearly two decades of organizing efforts.*

A. Key Case Study: Largest Company Busts Most Important Worker Struggle

The most important worker organizing effort in the Colombian flower sector in the past five years is currently in the process of being crushed by the country's largest flower owner and exporter, U.S.-based Dole.

In November 2004, workers formed a union at Dole's largest flower plantation and immediately faced an anti-union campaign that continued through 2005 and into 2006. The anti-union campaign culminated on October 12, 2006 when the company announced it would shut down the plantation. As Wal-Mart did in Canada in 2005, Dole cites profitability problems as its reason to shut down an operation in the middle of a union organizing drive. Ninety percent of Dole's other Colombian plantations remain operational.

Dole Fresh Flowers, a subsidiary of the Dole Food Company, is the largest flower exporter and plantation owner in Colombia. In 2006, Dole controlled approximately 20% of

"During the early 1980s, some headway was made at organizing flower workers into unions. However, plantation owners responded with violent repression and the movement was essentially broken. To this day, the only unions tolerated by the industry are company unions that serve owners' interests while doing nothing to protect workers' rights."

--excerpted from "Roses, Thorns and Seven Dollars a Day: Women Workers in Colombia's Export Flower Industry," by Cynthia Mellon in *The Wages of Empire: Neoliberal Policies, Armed Repression, and Women's Poverty*, eds. Amalia Cabezas, Ellen Reese, and Marguerite Waller. Boulder: Paradigm Press (forthcoming 2007).

Colombia's flower production and exports, nearly all of which are flown to the U.S. *The experience of Dole workers who have been fighting to organize a union and gain a collective bargaining agreement on the largest flower plantation of the biggest flower company in Colombia is an important and timely case study in revealing the systematic denial of basic rights in Colombia's flower industry.*

Dole workers form union

Of Dole's 20-something plantations in Colombia, the Splendor operation has been the company's largest, with 1,700 workers. On November 11, 2004, Splendor workers hold a founding assembly to establish the Splendor flower union, Sintrasplendor, which is affiliated to an independent flower organization, Untraflores. Three days later, on November 14, the

"I had been working at this plantation for four years when my hands started to fall asleep. I would work from 6 a.m. until 5 or 6 p.m., using clippers all day long. The pain went all the way up to my shoulder. They gave me an exam to see if the carpal tunnel syndrome was due to a thyroid problem, arthritis, or glycermia, and since those tests came back fine, they knew it was because of the work.

"I have had surgery on my right hand three times. I feel like I am going to lose this finger. It is really hard to bend it or move it. I get to work at 6 a.m., and by 8:30 a.m. my hands hurt so much I can't stand it. I only work taking the smaller buds off the stems; this is an easier job than cutting but I am still sick.

"They didn't give me enough time to recover from the surgery before sending me back to work. After the last surgery, they gave me 1 month and 20 days of rest. But the specialists say that it takes at least 6 months for the nerve to recover. On the outside, the skin looks healed, but inside the nerves have a hard time healing. I haven't recovered, and every day my hand hurts more."

-Dole female flower worker

union files with the Colombian government (the Ministry of Social Protection) an application for legal recognition.⁹

Police block assembly

At a subsequent assembly meeting scheduled for November 27 at a community building in El Corzo, the union reports that a police patrol intervenes to prohibit the meeting, with the accusation that the workers were going to "plan something against the company," a charge suggesting that the police intervention was requested by the company.¹⁰

9) Copies of legal documents filed with Colombian government available upon request from US/LEAP.

10) ILRF Urgent Alert, December 2, 2004.

Second union quickly shows up

On December 10, 2004, a second union shows up at the Ministry and also files a request to represent the Splendor workers. The union, Sinaltraflor, has a long-standing reputation as being cozy with the employers association. Ten days later, on December 20, 2004, Dole signs a collective bargaining agreement with Sinaltraflor. At the time, Sinaltraflor reportedly represents about 100 workers on the plantation while Sintrasplendor represents 400 workers. The contract provides virtually no new benefits for the workers and contains no protections for their basic rights. A slight raise is provided, nearly exactly equivalent to the dues that are deducted from the workers pay and sent to Sinaltraflor, a convenient arrangement for Sinaltraflor if not of much monetary value for the workers.¹¹

For the next two years, Dole argues that the contract with Sinaltraflor prevents it from bargaining with Sintrasplendor. Although an ILO consultant says that Dole is mistaken and that the company could bargain with Sintrasplendor if it chose to do so, Dole never wavers in using the Sinaltraflor contract as an excuse to not negotiate with the independent union that initially organized the plantation.¹²

Dole challenges union's legal recognition

Sintrasplendor continues to organize, claiming 700 workers by the spring of 2005. On March 11, the Colombian government grants legal recognition to Sintrasplendor, the first independent flower worker union to receive legal recognition in Colombia, according to the International Labor Rights Fund. Sintrasplendor files a petition for collective bargaining negotiations.

"It is practically impossible to find a company where workers are able to dialogue with their employers or to exercise their right to create a trade union or any other type of association that defends their interests."

-Corporación Cactus, *Detrás de las Flores...Derechos de Las y Los Trabajadores*

In April, 2005, Dole challenges the union's legal recognition. In July, the Ministry reverses itself and revokes the union's registration, citing spurious technical reasons and prompting an international outcry. A month later, the Ministry reverses itself again and reinstates the union's legal registration.

11) A comparative analysis of December 2004 Splendor collective bargaining agreement and the pre-existing pacto colectivo is available upon request from US/LEAP.

12) Interviews and communications with Dr. Carlos Guarnizo.

Tragedy strikes Dole workers

In July, 2005, an overloaded company-contracted bus rushing to avoid being late to work crashes, killing three workers. A key Sintrasplendor complaint, and an issue for the CBA negotiations that Dole refuses to undertake, is bus safety.

Dole refuses to reinstate illegally fired workers

In October, 2005, Dole refuses to reinstate four fired union members, despite being ordered to do so by the Ministry and despite a promise in September to international groups to negotiate with the union in good faith.¹³ Dole also repeats its position that it cannot negotiate with the union until the current contract expires in October 2006.

Dole threatens to close plantation

Meanwhile, workers report an on-going campaign of discrimination against union members. Local supervisors reportedly warn workers that the company will close the plantation if it is forced to negotiate and repeatedly demonstrate their preference for Sinaltraflor.¹⁴

“Our motivation for starting the union was humiliation by the management and forced overtime.”

-male flower worker

Dole makes and breaks more promises

Over the course of 2006, Dole makes and breaks more promises that would resolve the conflict fairly. In April, Dole says it would abide by a fair election process but then rejects a democratic secret ballot election. In the fall, Dole asks the government to conduct a public census of the two unions, under which the government compares the lists of each union, a process that would expose Sintrasplendor supporters to discrimination and possible dismissal. The government states that it will conduct its census by examining dues deductions, a process not provided for in Colombian law and one that would simply grant majority union representation to the union with a contract (Sinaltraflor), since Sintrasplendor has no contract and no dues are deducted. Sintrasplendor refuses to participate in this farce.

13 Copies of supporting documents available upon request from US/LEAP.

14 Email reports from UNTRAFLORES to US/LEAP

Dole announces plantation closure

After nearly two years of stalling, Dole's own time-line to negotiate with Sintrasplendor when the current collective bargaining agreement runs out at the end of October 2006 nears. But on October 12, 2006 Dole announces the closing of Splendor as part of a restructuring operation. Splendor and one small plantation are the only two plantations being closed in Colombia while another 18 or so will remain open. Although Dole says other plantations will suffer some cuts, Splendor workers represent the vast majority of workers being effected by Dole's restructuring in Colombia. International and national union groups and NGOs ask Dole to provide documentation to support its contention that the closing was for economic reasons rather than an anti-union response. Dole refuses to provide any documentation, simply stating that Splendor is less productive than other plantations, taking the same line Wal-Mart took when it closed a store in Canada in 2005 in the face of a union organizing campaign.

Union busted

Shortly after the announced closing, Dole supervisors falsely state to workers that they must take severance immediately or it will not be available after the Ministry officially authorizes the closing. Dole also provides an extra incentive for workers who take immediate severance. Together, the carrot and stick start a mass exodus from the plantation, with more than 1,000 workers leaving by year's end. As of February 2007, only 400 workers remain employed, the union is effectively dead, and a final closing is slated before July 2007.



Anti-union message received loud and clear by flower workers

In Colombia, Dole's message has been received loud and clear: workers who chose to organize an independent union should be prepared to lose their livelihood. Dole may claim economic restructuring as its reason for closing Splendor but the thousands of flower workers in the Facatativá community see a defeated union drive, lost jobs, and Colombia's most important flower company closing its largest plantation because workers tried to exercise their basic rights.

B. The Role of the Colombian Government

The Colombian government has hardly been at the front lines in defending the rights of workers. Leaving aside the more dramatic issue of Colombia leading the world in the number of trade unionists murdered and the 99% rate of impunity enjoyed by the killers, the government has also been negligent in protecting core worker rights when workers try to form unions. In the Splendor case, the Ministry of Social Protection delayed action on the union's request for legal recognition, thereby providing time for Dole to sign a contract with another company-favored union, then granted Dole's appeal to withdraw the union's registration before an international campaign forced the Ministry to re-register the union. The Ministry was also prepared to conduct a spurious census to determine majority union representation that would have validated the collusion between Dole and Sinaltraflor and denied Splendor workers the opportunity to express freely and democratically their union preference. Nor did the Ministry ever intervene to investigate and put a stop to the company's anti-union campaign.

C. Other Case Studies

1. Flores de la Montaña (Ecuador)

In June 2005, workers at Flores de la Montaña in Cayambe tried to organize a union. Three days after the workers notified the Labor Inspector of the creation of the union, management fired all 35 of the workers who had signed the document to establish the union. Two weeks later, the fired workers staged a protest outside the entrance to Flores de la Montaña, to defend their right to freedom of association.

In August, 2005, the Ministry of Labor granted the union legal recognition but the company refused to respect the ruling and pay the additional compensation established by law for unionists who are illegally fired. Company representatives instead visited the fired workers individually and pressured them to take the compensation and end their support for the union. Eventually, all the workers were pressured into accepting the compensation offered by the company which successfully killed the union effort.

2. Wesmax EU (Colombia)¹⁵

In 2001, the Wesmax EU flower company announced that it would close its existing plantation and open another, Falcom Farms. The company offered the workers positions at the new plantation, but only under the condition that they “voluntarily” terminate their contracts and enter new contracts that would provide fewer benefits than their current contracts.

Four hundred workers refused to sign the new contracts and in protest, some workers formed a union that quickly grew to 300 workers. The union demanded basic rights and improved working conditions and when the demands were not met, called a strike. This strike was particularly brutal on the workers, many of whom had to sleep in the streets with their families. By the end of the strike, seven of the women who had been pregnant had had miscarriages and another two women lost their babies shortly after birth. The Ministry of Social Protection eventually ruled against the workers, ending the workers’ struggle to establish a union, secure their rights, and improve their working conditions.

3. Rosas del Ecuador (Ecuador)

In 2003, the owner of Rosas de Ecuador, one of only three unionized flower plantations in Ecuador and the oldest, stopped paying his workers. After three months of unpaid work, the workers took over the plantation. For the next three years, union workers worked on the farm in shifts to prevent the owner from accusing them of abandoning their jobs and to prevent him from removing all of the equipment before he had paid their back wages.

In 2005, an Ecuadorian court ordered that the farm be liquidated to pay the workers the back wages. When the Ecuadorian government was unable to sell the farm for a reasonable price, the workers agreed to accept the property as compensation for unpaid wages, over \$500,000. Today, the workers are determining whether they will try to work the land together as a cooperative or sell it to divide the recovered funds among the unpaid workers.

15) This case study was taken from a Cactus report, *Experiencias Sindicales y Conflictos Laborales en la Floricultura Colombiana* by Ruth Rueda Cifuentes

IV. U.S. Trade Benefits and the Flower Industry

ATPA

The Andean Trade Preferences Act (ATPA) provides trade benefits to selected exports from Andean countries. It was created as a development strategy to provide incentives for Andean countries to produce non-traditional exports for the U.S. market. The program has also been supported as providing a market alternative to the growing of coca, and was expanded in 2002 as the Andean Trade Partnership and Drug Eradication Act (ATPDEA).

ATPA on Congressional Agenda This Year

In December 2006, Congress extended for six months ATPA benefits that were set to expire at the end of 2006. ATPA extension will therefore be on the Congressional agenda the first half of this year.

ATPA and Flowers

Under ATPA, cut flowers receive duty-free access to the U.S. market. ATPA has been credited with the growth of the cut flower export industry in Colombia and Ecuador, now the two largest exporters of flowers to the U.S. ATPA has also been blamed for speeding the loss of virtually all cut flower jobs in the U.S., primarily in California.

In 2005, the customs value for flowers exported under ATPA was nearly \$418 million from Colombia and \$129 million from Ecuador. Flower exports from both countries increased in 2006, with an 8% increase from Colombia and a 10% increase from Ecuador, based on November 2006 figures.

ATPA and Worker Rights

Under ATPA, exporting countries are required by law to be “*taking steps to afford internationally recognized worker rights...*”

Ecuador’s ATPA trade benefits have been “under review” (i.e. on probation) since 2003 when worker rights petitions filed by Human Rights Watch, the AFL-CIO, and US/LEAP were accepted by the U.S. Trade Representative. Supplementary petitions were filed by Human Rights Watch and US/LEAP in 2004 and 2005, and the review remains on-going.

The worker rights situation is even worse in Colombia, where more trade unionists are murdered each year than in the rest of the world combined (see *Justice for All: The Struggle for Worker Rights in Colombia*, released by the AFL-CIO’s Solidarity Center and available on-line at www.solidaritycenter.org.)

Congress, Dole and Flower Worker Rights

In November, 2006, Rep. Jan Schakowsky, Rep. Barbara Lee, and Rep. Linda Sanchez wrote to Dole to express concerns about the lack of worker rights in the Colombian flower industry, particularly with respect to Dole’s decision to close its largest flower plantation in the face of the most important union organizing drive in five years. The letter expressed doubts about the wisdom of extending ATPA benefits. Dole responded by denying any violations and claiming its strong support for core worker rights--as well as its support for retaining ATPA benefits.

For Additional Background Information

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