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Abstract

This paper is an analysis of the effects of NAFTA on labor and the apparel industry in Los Angeles. On a broader, more theoretical basis, this paper is about how free trade consistently disadvantages low-wage working people, often immigrants. The argument synthesizes the history of NAFTA, its inherent inequalities in its construction, the failure of the labor side agreements, and the overall impacts on the apparel industry as a result of these factors. Suggestions are presented to improve the current problems associated with NAFTA and methods to deal with the future. This work contributes to the growing works about the harms of free trade on working people in the garment industry in Los Angeles and helps to reveal to real cost of free trade.

Preface

Over and over again we are told that globalization is the new world order and the only world order. Its meaning has been contorted to assert benefits for the world and all its inhabitants. It is justified by people in power and those struggling for power from all directions, in all forms, to the point where it has become an unarguable reality. Government and corporate elites through media and other forms, tell the world citizens that globalization is a natural process. In reality globalization is simply capitalism on a global scale. There is nothing natural or normal about globalization, or capitalism for that matter. It is only one form of economic order that has been very deliberately propagated by the world powers and made to seem normal. Capitalism tells us that the "free market" is guided by an "invisible hand" and this system will only operate fully with absolutely no constraints, in a vacuum of sorts. With terms like "free market" and "invisible hand," capitalism and globalization has become naturalized and normalized, and something to be sought after. But this is exactly where the deceit lies.

Multitudes of laws are passed to help attain the reality of a global market. The institutionalizing of such ideas into law not only happens behind closed doors that the citizens of the involved countries are not even aware of, but comes at the expense of most of the worlds' people. The theory behind globalization is to maximize profits (for the benefit of the producer), while keeping prices low (for the benefit of the consumer). This is predicated on the creation and maintenance of the poor and blatant disregard for the low wage workers that produce consumable goods. In order to maximize profits, working conditions, wages and other factors are forced down and kept down. It is become an inescapable reality for the world's poor. It creates a trap in which those struggling to survive must play the game in order to maintain any semblance of life.

As residents of the most culturally, economically, militarily and politically dominant country in the world that exports its ideals, we forget that another way and world view is possible. Our country's short memory and selective history and education, keeps us from realizing that other worlds have existed and do exist. We have ourselves become consumed by the consumer practices particularly in regards to NAFTA. With the approval of NAFTA, the most recent discussion of the Central American Free Trade Agreement (CAFTA) and the long term plan of the Free Trade Area of the Americas (FTAA), our world's economic problems are being exacerbated. The gap between the rich and the poor grows larger, real wages go down, purchasing power goes down, working conditions worsen, poverty is on the rise along with the multitude of poverty-related conditions.

Living in Los Angeles and attending a liberal arts school brings to light these enormous wealth disparities in US society. But LA has also brought to my attention the changes that can be made. The more I learned, the more I knew that I needed to use my time in school for something that would change society for the better. I could no longer watch these injustices continue to thrive around me, nor could I close my eyes to them like we are taught to do. I intentionally chose a major that would allow me to affect change, even if on a very local level. I began to get directly involved in labor issues on campus through the Student Labor Action Coalition, but my awareness of labor issues began much earlier. I grew up in a strongly union family that taught me the values of workers rights and the challenges facing them. When I was in high school, I experienced a specific first hand incident that made me truly realize the injustices that can and do occur to laborers, particularly immigrants. I took a trip with a local farmworker union to view the abhorrent living conditions of a group of strawberry pickers. I can still remember being horrified by the poorly built house that was overflowing with people. There was no insulation, just planks of wood for beds, no mattresses, and lighting consisted of single light bulbs. Those who did not fit in the house were forced to sleep in run down vans parked outside. They were paid per pound of strawberries picked and their hands were stained red. This was not Mexico, nor was this was not some struggling Third World economy; this was the United States, the richest most powerful country in the world. Nor is this an anomaly, in fact, it is the status quo for immigrant workers, the backside of capitalism upon which enormous profits are made possible.

While writing this paper and trying to express the true nature of my argument, I came across many obstacles and challenges from the world of academia. The academic discourse promotes and idealizes an unreachable goal of objectivity, including the use of even handed, rational thought. However this is not my goal for this paper nor do I believe it is a possible goal. My goal for this paper is to make clear the true repercussions of globalization, to bridge the gap of misunderstanding by telling the untold stories, and to add to the discourse. I believe it is devaluing and demeaning to those I am speaking about if I attempt to dilute my words. These str

Introduction

Globalization has been described as rket.694 -1.1 158/T Tc-0.004 Tw[-.0002ne wo(ed ati)als s(

that. However where they have failed is on the human side of trade. Is this heightened shift towards free trade really free? Besides the beneficiaries, are there not also groups, often composed of many more people, who have experienced negative impacts?

Policies, such as NAFTA, do not appear out of thin air. As basic as it may seem, they are meticulously and carefully articulated to create a desired purpose with specific interests in mind, whether those be the interests of big business or local community groups or both. With the assistance of various affiliated institutions and individuals the government develops policies that shape our everyday lives. This paper will demonstrate how the U.S. government policy of international trade has negatively affected the apparel industry of Los Angeles, with job loss and poor working conditions that in turn has caused increasing socio-economic inequalities. I will argue that the worsening labor conditions in the Los Angeles apparel industry created by the North American Free Trade Agreement were inevitable and implicit in the biased and flawed nature of the agreement.

Most of the choices presented to us about our daily lives (whether vast or limited) are facilitated by the government, yet this reality is not often recognized. Many times those who are harmed by the intentional or unintentional consequences of policies are unaware of the role of policy in their lives. Policy makers themselves cannot always predict all the outcomes or recognize all groups affected, yet their role remains critical. Free-trade, due to its international nature, affects more groups than domestic policy and that certain interests are promoted and maintained through global trade arrangements and other interests are consistently, and I would argue deliberately, ignored – those of the low wage workers who are the backbone of the system of global capitalism. As Ralph Nader argues:

> Approval of these agreements has institutionalized a global economic and political situation that places every government in a virtual hostage situation, at the mercy of a global financial and commercial system run by empowered corporations. This system is not designed to promote the health and well-being of human beings but to enhance the power of the world's largest corporations and financial institutions.[ii]

The well-being of all the communities affected by trade liberalization needs to be addressed, although it is frequently left out. These are the people who are victimized and destroyed for the sake of profit, competition and low prices. Very little has been done by large trade organizations or others to evaluate what type of problems trade liberalization is creating for the world's workers, let alone provide any protections or securities. Yet policies continue to be approved. Success in this system of international neo-liberalism is evaluated by profit margins, price reductions, sheer quantity of production, and various other measures of progress. In fact in the development of GATT and NAFTA "the regulation of commerce to protect environmental, health, or other social goals is strictly limited, and labor rights, including prohibitions on child labor, were entirely left out as inappropriate limitations on global commerce."[iii] This blatant disregard for human life and dignity must be recognized, evaluated and eventually reversed.

This paper seeks to address the "unwelcome guest"[iv] that is left out of initial discussions about free trade – that of labor conditions, particularly in the apparel industry. This issue is discussed in terms of free trade but only upon repeated demands and is often not effectively or successfully addressed. I am most interested in looking at who benefits and who is harmed when expansive international agreements are passed without the consultation, or knowledge, of certain groups affected by it. NAFTA creates two separate worlds, one of "profits for the few" and the other of "poverty for the many"[v] and solidifies these inequalities within society. The negative side of NAFTA can be clearly seen by the harmful consequences in the apparel industry in Los Angeles. The apparel industry is one of the industries most harmfully affected by trade liberalization policies,[vi] due to the low start up costs and abundant labor pools.

Since little research has been done on the actual direct effects of NAFTA, it is difficult to obtain extensive data on the apparel industry's changes. Most of my argument is theoretical and about the processes surrounding NAFTA. I begin my argument by describing the changes in the apparel industry in Los Angeles since the early 1990's, outlining the sensitive nature of this industry in the pre- and post- NAFTA context. In the second part I will profile the history of the creation of NAFTA and its basic tenets and components. This section will briefly explore the labor side agreements, the negotiation processes, the key players and certain socio-political conditions that affected the decision making process. The third section will explain the explicit and direct effects NAFTA has had, and continues to have, on the apparel industry nationally and in LA. I will explore arguments made by groups and individual proponents and opponents of the agreement regarding these effects, before and after its adoption into law. This discussion ranges from a focus on the apparel industry to the concept of NAFTA itself. The fourth section will explain the institutionalized and theoretical reasons for the negative consequences of NAFTA on the apparel industry, including the flawed logic implicit in NAFTA. There will be an emphasis on the side-agreements and their ineffective implementation since these were designed to protect the workers who are in fact being harmed by NAFTA. And the final chapter proposes solutions to deal with the problems created by NAFTA.

Chapter 1: The Los Angeles Apparel Industry

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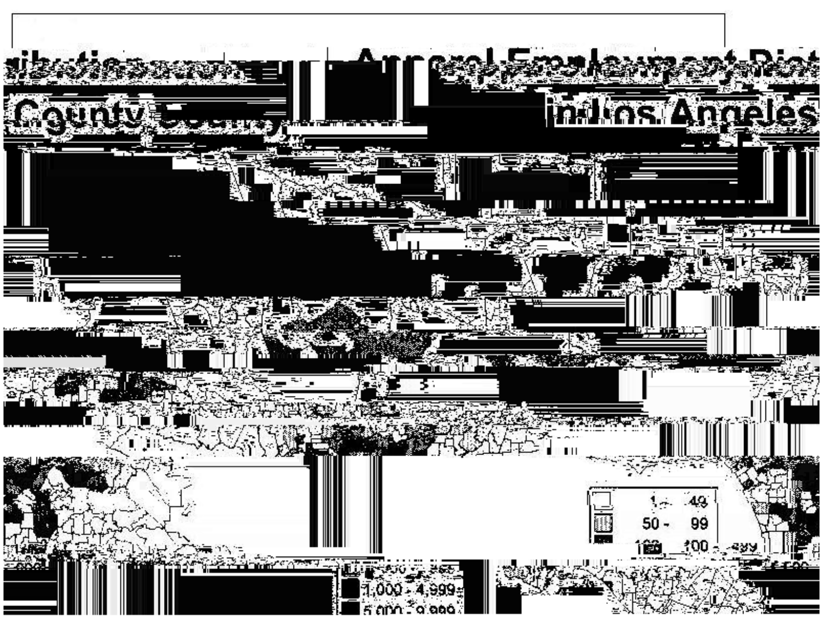
industry and power dynamics in California, as presented by the Garment Workers Center and Sweatshop Watch.

It is important to note for the apparel industry in particular that an unknown number of employees are not captured by these statistics, particularly government census information. The data available does not show undocumented workers who are not officially reported as working, forced laborers, employees of unregistered contractors or other underground and illegal situations. The law in California requires that garment contractors register with the state "[h]owever many…fail to register and operate unlicensed shops, often failing to pay payroll taxes, workers' compensation insurance, and avoiding other laws and regulations."[xv] Apparel contractors have also been known to periodically change locations or company names to avoid compliance with labor laws.[xvi] Although "the practice of using home labor for commercial apparel manufacturing is illegal,"[xvii] it is a reality and there have been some documented cases, such as the infamous El Monte case (which will be discussed later). While that case may have been an extreme, it is difficult to determine if it is an exception. Information regarding wages includes all sectors of the apparel industry including designers, contractors, production workers, cannot take into account all of these unreported workplaces.

Los Angeles began dominating the apparel industry after the First World War.



all sectors of the apparel industry's varied levels of occupations. Again this is based only on documented legal workers, and excludes the impact of undocumented workers whose impact increases these conditions.

Working Conditions

A handful of newspapers and other groups have publicly featured articles on the lives of garment workers in Los Angeles. This information is incredibly valuable when assessing the status of the industry; for a system's success can be determined by the lives of its poorest. The Los Angeles Times column – – in 1995 profiled a few garment workers in their own words, making their working conditions publicly known.[xxxix] In the three workers' interviews, they explained their low wages ranging from $10-$20 per day, and $60 to $160 per week. Work hours for Martha Rodriguez were from 7am to 6pm during the week and 7am-1pm on Saturdays. Others worked from 9-11 hours per day and all mentioned work on Saturdays. When work demand goes down so does their wages since much of the pay is per-piece, not per hour. This promotes unsafe working conditions since workers rely on their speed to make ends meet. A more recent article from the LA Weekly profiles a garment worker whose pay has declined $150-$250 per week since the 1980's in the same type of job.[xl]

The more detailed accounts of what is happening "on the ground" in the apparel industry are left to small groups and academics to seek out themselves, not the government or adjustment programs. Unfortunately much of this information that is gathered about conditions in the LA Apparel Industry is hearsay. Workers are afraid to speak up and attain a collective voice. Despite the fact that conditions are similar all over the LA area, powerlessness is widespread. It is difficult for workers to speak out about their conditions when they feel the have no security. Many workers are not citizens which ads another element of fear to their workplaces. As one employee of an LA garment shop describes her situation:

> Finally, I saw too many violations and started talking to my co-workers. We went to the Department of Labor. After I called so many times, they finally came to investigate. But when the investigators got to my shop the employer started telling people that they were immigration officers. People left and never gave a statement.[xli]

Many garment workers are at the will of their employers. If they do not do well, they can easily be replaced, and this is well known among apparel workers. Others express similar frustrations: “I’ve tried to talk to some of my co-workers about [wages below minimum wage], but the situation is the same in all these places.” One of the reasons that workers in the apparel industry feel powerless is that they remain one of the least represented working communities in Los Angeles. Currently “[l]ess than 1% of garment workers are unionized in Los Angeles.”[xlii] Without this legally protected collective voice in the form of a union, workers are isolated and unable to change their working conditions.

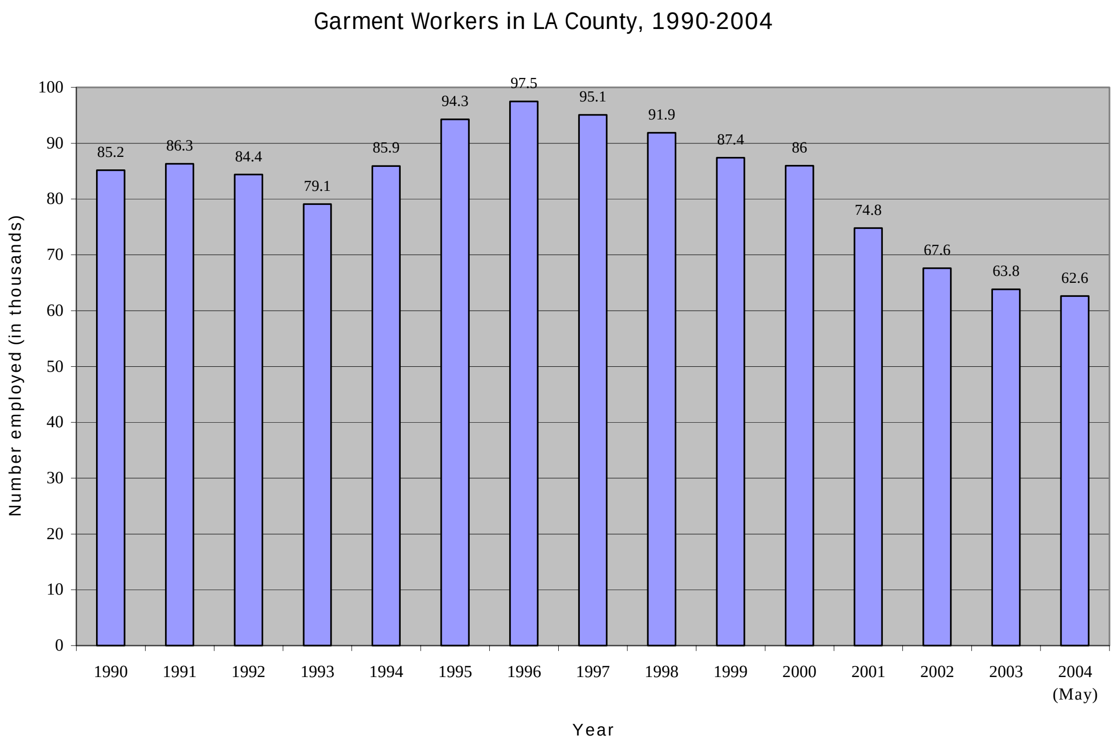
Because of the poor and worsening conditions local organizations are providing services such as the Garment Worker Center. This Los Angeles based non-profit organization specifically addresses the concerns of apparel workers and their working conditions. It was started by a group of immigrant rights groups that saw the need for an organization to address garment workers issues in particular. The groups included Sweatshop Watch, the Asian Pacific American Legal Center, the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) and the Korean Immigrant Workers

Advocates (KIWA).[xliii] In 2001 it opened with a mission to "empower garment workers in the greater Los Angeles area and to work in solidarity with other low-wage immigrant workers and disenfranchised communities in the struggle for social, economic and environmental justice."[xliv] The Center provides educational, and leadership training, as well as workshops on issues in the workplace such as wages and hours. The Center provides free services in several languages to address the needs of many garment workers. The previously mentioned organizations also work on similar issues. This is one way that independent organizations have taken matters into their own hands when the needs of workers are urgent and widespread.

However, enforcement of labor laws remains primarily the role of the government. When the government does get involved with labor enforcement it is often after continual prodding or a tragic event such as the slave system set up in El Monte, California. In 1995, a group of 72 Thai immigrants were found in a guarded compound forced to sew clothing, literally chained inside. Some of them were retained for 7 years and they were paid only $1.60 an hour. The state and federal law enforcement only discovered this situation when a few of the workers managed to escape.[xlv] While this example is an exception, other government studies have found results indicative of poor conditions everywhere. The U.S. Department of Labor in 2000 found that 2 out of 3 garment factories in LA violate minimum wage and overtime laws and 3 out of 4 factories violate health and safety regulations.[xlvi] Furthermore, the study concluded that the rate of compliance increased in 1994, but remained at the 1996 level. "The US has great laws- minimum wage, workers comp, some places have living wage, no child labor- but great laws don't help without enforcement."[xlvii] Beyond the need of better enforcement there is a lack of pre-emptive or preventative enforcement and oversight. The Wage and Hour Administrator T. Michael Kerr openly recognized that "monitoring is only one part of what must be a much more comprehensive solution to the very pervasive compliance problems in this industry, and our survey findings indicate that the quality of monitoring is suspect."

Life after NAFTA

Since before NAFTA employment in the apparel industry had been declining, however the period after NAFTA shows acceleration of this occurrence. The most notable and easily quantifiable changes in this time have been in prices, employment, wages and job creation. Nationally "in 1997, 15% of garment workers were laid off since 1994, faster than another other manufacturing industry."[lii] In 2003 alone, 93,400 jobs were cut from the country's apparel industry.[liii] Not only were workers laid off faster, but



in the largest quantities.[liv] The number of jobs lost has only increased since this time. According to the Handbook of North American Industry "employment in the [apparel] industry is declining and is expected to continue downward through 2005. Projections to the year 2005 indicate it will then be around 771,600, or about 22 percent below the 1993 level."[lv] Since 1994 California has had the most net job losses in the nation at 115,723.[lvi] In Los Angeles "apparel manufacturing employment has steadily declined since 1997"[lvii] with a few fluctuations after it peaked at 103,900 employees in 1996.[lviii] Estimates in 2003 place LA employment around 67,900[lix] and in 2005 at 62,600 for production workers.[lx]

The post-NAFTA economy has created a situation of no escape for many producers and employees across the US. "[A]pparel is 10% cheaper than it was in 1994."[lxi] But employees and employers alike worry that prices cannot go any lower without putting many factories out of business. Already many businesses have had to lay-off workers and reduce costs. "Clothing companies are going out of business today at a faster rate than any other kind of manufacturer."[lxii] One of the main reasons for the worsening conditions in the apparel industry is due to NAFTA. In order to understand the arguments made in this paper, a detailed look at the history of NAFTA is required.

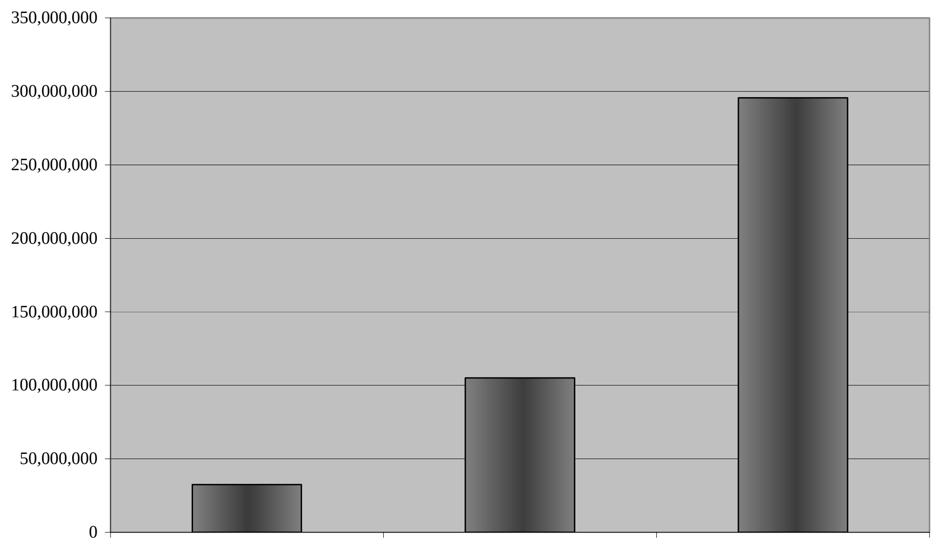
Chapter 2: Creating a Monster: The History of NAFTA

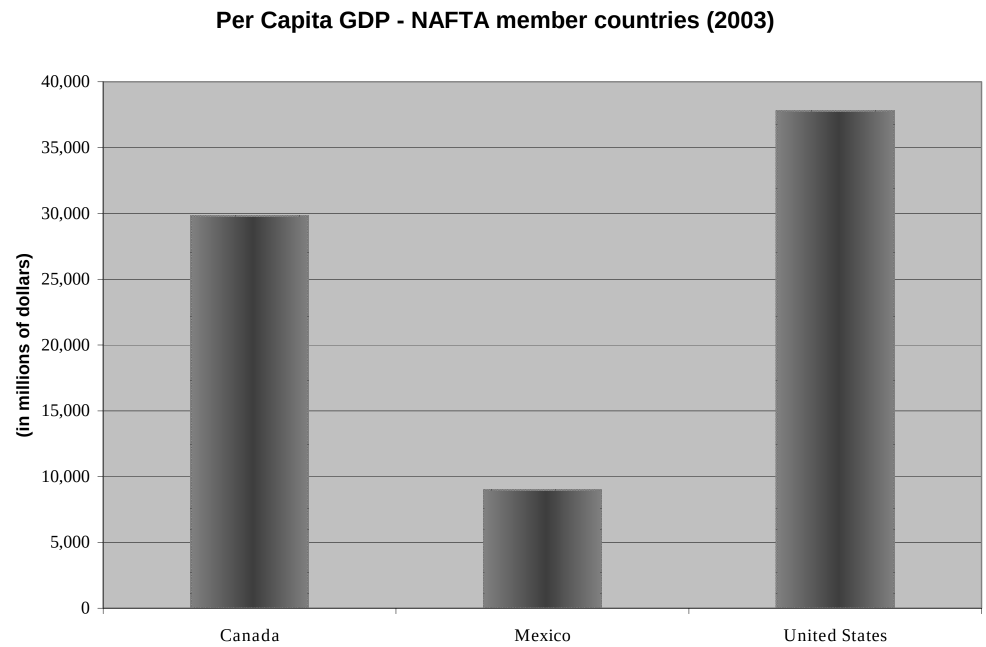
The North American Free Trade Agreement went into effect on January 1st, 1994 after years of discussion and debate. It was designed "to encourage the flow of capital and goods across borders, the agreement drastically reduced tariffs and other trade barriers, eased restrictions on investment and strengthened legal protections."[lxiii] Upon its adoption, NAFTA established the largest free trade zone in the world, with a current combined gross domestic product of $11.4 trillion.[lxiv] This agreement in effect removed all barriers, both tariffs and non-tariffs, on the trade of goods between the US, Mexico, and Canada. It also addressed "newer themes such as trade in services and protection of intellectual property."[lxv] Proponents argued that all participants in the trade agreement would benefit with expanded economies, low prices and more jobs. Agreements such as this directed policies toward a "vision of the world where goods and services flow freely to the benefit of both producers and consumers."[lxvi] Trade with Canada and Mexico [in 2000] accounts for one-third of the US total, up from one-quarter in 1989.[lxvii] Trade between San Diego and Mexico nearly tripled, from $11.5 billion in 1994 to $30.1 billion in 2002.

Formal negotiations began in June of 1991 after discussion from the leaders from the three involved countries. Prior to NAFTA the US and Mexico had agreed in June 1990 on free trade negotiations and Canada, under the authority of prime minister Brain Mulroney, joined the others in February of 1991.[lxviii] Canada and the US had a previous agreement (CUFTA) which provided much of the base for NAFTA.[lxix] Although NAFTA act of desperation, was more about relieving debt and saving a struggling economy than anything else, yet much of the rhetoric around the debates did not speak to this issue.

Although United States has had a generally open policy about free trade, this has not been particularly true of the other NAFTA member countries, especially Mexico. Even before the specific effects of NAFTA were shown, "[o]ne thing was clear, even in 1990, Salinas had made a momentous decision that would reverse the policies of all previous Mexican presidents since the 1910 revolution and profoundly affect the course of his people's lives."[lxxiv] In the 1980's, Mexico was one of the most closed economies in the world and now it is one of the most open.[lxxv] Mexico has had a negative history of trade with the United States. It "suffered greatly from US intervention in the nineteenth and first half of the twentieth centuries…the principle of nonintervention by foreign powers in the international affairs of other countries thus came quite naturally to Mexico."[lxxvi] Despite the changes in Mexico's economic policy over the 1980s, no change was more dramatic and showaboaes, nes…Nnegw atiur ofyMexico's

Population of NAFTA member countries- 2004





Although the asymmetries were acknowledged in the text of NAFTA, many argue that they were not adequately addressed.[lxxx] Each country approached NAFTA hoping for their country to benefit individually, but other economic and political situations affected the outcomes of this agreement.

Issues of national sovereignty were a very important part of the debates regarding NAFTA since the agreement established its own form of authority. With the passage of NAFTA "the state has ceased to be the , or moving force, of the economy."[lxxxi] New, exterior and collective forces are involved in approving the economic decisions for all of North America. In a sense, all countries sacrificed part of their sovereignty in order to open their markets.

Main Players

Such a large scale agreement connecting the entirety of North America required a great deal of involvement from all three countries. Each of the countries' leaders and their administrations put together negotiating teams for the processes of developing NAFTA. As mentioned earlier, the main national leaders during the period of initial negotiation were Carlos Salinas de Gortari of Mexico, Brain Mulroney of Canada and George H. W. Bush of the United States. Salinas' history as president has been surrounded by controversy and conflict. He was elected as a candidate of the Institutional Revolutionary Party (PRI) 1988 in an extremely close election – winning by just 50.4% of the vote. With widespread allegations of fraud his authority was questioned throughout his six year presidency.[lxxxii] "[W]ith evidence of fraud in vote counting…Salinas entered power with a flawed mandate."[lxxxiii] Many analysts have assumed, in fact, that the sharpest critic of globalization and free trade, Cuauhtémoc Cardenas Solórzano of the National Democratic Front (FDN), was the actual victor in 1988. Cardenas acknowledged during the NAFTA negotiations that trade "must be an instrument of development, not an end in itself." But Salinas did not agree and he received criticism from other political parties as well as within his own for promoting economic integration with foreign markets, particularly the United States[lxxxiv] and emphasizing privatization.[lxxxv] Salinas' legacy has been to "redefin[e] national sovereignty as being contingent on a strong, world-competitive private economy whose vitality is by a strong state."[lxxxvi] Yet Salinas was in a position that demanded some change for the Mexican economy that was struggling with a huge foreign debt and inflation.

George H. W. Bush did not vary much from his history or party in the approval of a free trade area between Mexico and Canada. The transition was fairly easy from the previous Reagan administration with its policies favoring privatization and open markets dominated by large corporations. However, his approval ratings did decrease as the disapproval of NAFTA increased, especially during the most intense negotiation periods.[lxxxvii] Bush's negotiating coordinator was Carla Hills, who was at the time a Trade

Representative. Hills selected Julius Katz to the position of chief negotiator. The main negotiators for NAFTA under Salinas' administration were Herminio Blanco Mendoza as chief negotiator and Jaime Serra Puche, the trade minister of Mexico.[lxxxviii] Canada's main negotiator, John Weekes, was chosen by the Deputy Minister of Trade Don Campbell.[lxxxix] The main negotiation overseers selected chief and deputy negotiators and arranged nineteen groups to address specialized issues. These groups together developed the main nineteen chapters of NAFTA. On the first day of negotiations "the ministers agreed to divide the negotiations into six broad areas; market access for goods; services; investment; intellectual property protection; dispute settlement mechanisms; and trade rules on subsidies, dumping, and rules of origin."[xc]

The Negotiations

Discussions about NAFTA generated a number of studies by economists and academics regarding the potential effects of such an agreement. Information was gathered by each country's policy makers for evaluative purposes. Even this discussion received much criticism. "This research focused on trade and investment, as well as on related aspects…However, this research agenda failed to adequately address the social, labor, environmental, and political implications of NAFTA, as well as some of the economic costs and possible alternatives."[xci] In short, the research and early debating was very narrowly focused on perceived areas of interest for the governments and associated interests. Initially the negotiations di(na0pioe4ies on38T (rests. Ince)4.pn.0002 .7(lly th)5.9(e ne)4.7s. 4d)T including nontraditional issues such as the environment and labor standards in the negotiating agenda."[xcii]

One of the most well-known and cited studies supporting NAFTA during the main public debating period was Gary Clyde Hufbauer and Jeffery J. Schott's assessment of the agreement. Their study published by the Institute for International Economics in March 1992 explains the expected effects on all three countries and shows clear support of NAFTA. The main positive claims were that NAFTA "enables North American firms and workers to compete more effectively against foreign producers…"[xciii] But even these economists recognize that the "progress on labor and environment issues proceeds in half steps…"[xciv] While few seemed to be thoroughly satisfied with the final labor side agreement, the potential benefits from the rest of the agreement overruled any hesitations for concern among those heavily involved in negotiations.

Throughout the general negotiation process many similar remarks were heard regarding the potential costs and benefits of the agreement. "The economic gains derived by liberalizing trade are net gains – there are both winners and losers" says Howard Rosen, "[b]ut we cannot ignore the fact that critical segments of the US economy may experience severe dislocation as a result of such liberalization."[xcv] This was a common theme, the idea of net gains, and was counted on by the three member countries. Most people acknowledged that some sectors of the economy would be negatively affected by this change in policy, even those strongly in favor of NAFTA, yet there was hope any problems would be easily phased out within the first few years or that larger benefits would overrule these problems. Both during and after the debates and negotiations there was much criticism that the governments of all countries used selective information to discuss NAFTA. Some noted that the negative effects foreseen were deemed as necessary evils, and just a natural part of this process. One analyst noted that “as a geographical entity, ‘the country’ may decline. But the interests of the ‘principal was the "first agreement that links labor rights and labor standards to an international trade agreement."[xcviii] Within NAALC, the Commission for Labor Cooperation was established as an oversight group and National Administrative Offices in each signatory country were to serve as information centers. The details of these groups and their effects on the LA apparel industry will be explored further in the next chapters.

Chapter 3: 'Happily Never NAFTA:'[xcix] NAFTA's Effects

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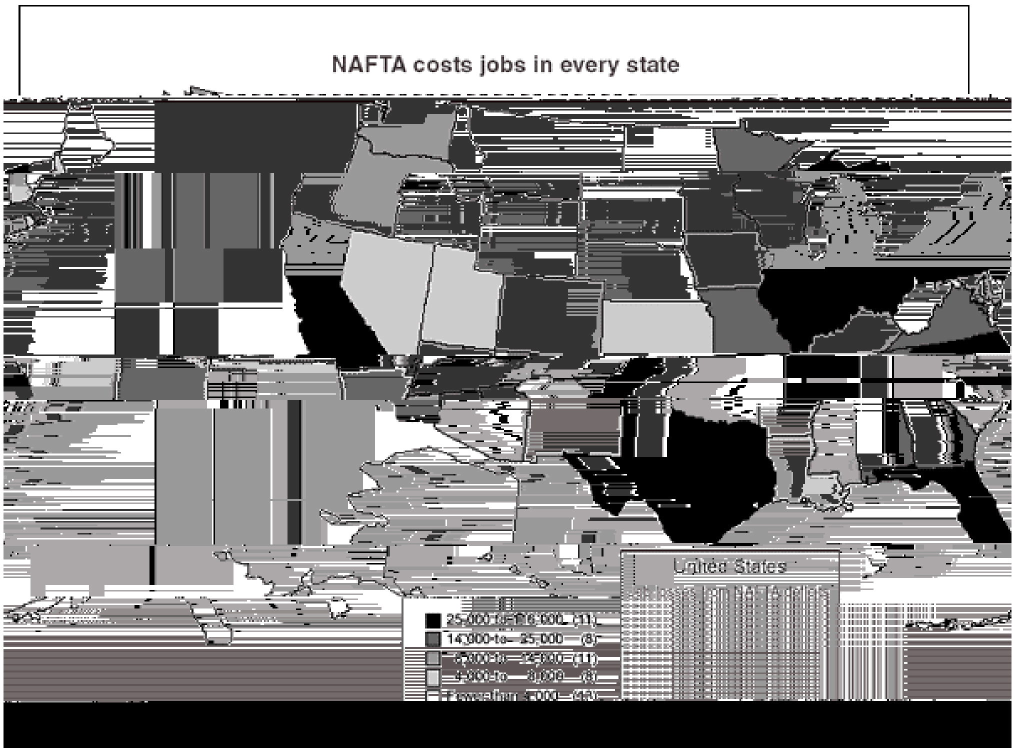
such a shift, this particularly sensitive industry and its low-wage employees were significantly impacted by the inequalities within NAFTA, particularly its failure to adequately address labor issues. The main economic impacts from NAFTA on the LA apparel industry have been job loss, wage decline, worsening working conditions and displacement of workers. Yet these economic none of these figures “represents a significant share of the nearly 9 million jobs dislocated in the US economic for a variety of reasons over a five-year period.”[cv] These attempts to explain the situation minimize the meaning of NAFTA’s impacts and distort public opinion of the agreement.

Standardizing Sweatshops

Garment workers are hugely disadvantaged by NAFTA in many ways. They are increasingly put in substandard positions as NAFTA exacerbates their working conditions. “Whereas the benefits of trade tend to be broadly dispersed across the United States, the pain is concentrated among those Americans most vulnerable to lower-cost competition,”[cvi] experts say. Garment workers in the United States are forced to compete with Mexican workers, who “start at about $6 a day.”[cvii] Although Chinese wages are half the Mexican rate, delivery issues favor the Mexican industry. Mexican garments are trucked to the U.S. border in two to three days--a crucial difference in the time-sensitive garment business.”[cviii] In many very critical ways, NAFTA is “reshaping North America's economy”[cix] and all those who make up and rely on that economy.

Nationally clothing companies, such as Ca-Ce-Len, Jos A. Bank Clothiers and others, have been forced to shut down because of inability to compete. As the owner of Ca-Ce-Len explained, “When the big orders went overseas, all that was left were small ones, [and] for those I had to compete with all the illegal home sewers.”[cx] In a way NAFTA has promoted and allowed for sweatshop conditions everywhere. By forcing prices down due to competition with a diffe competing with Mexican based suitmakers that were underpricing him by as much as $40 on each $270 suit."[cxi] Some have described this process as a race to the bottom that free place this number much higher. “The high price of 'free' trade” has been “NAFTA's failure [that] has cost the United States jobs across the nation.”[cxvi] Some arguments have been so direct as to say that “NAFTA has from the outset been predicated on a contraction of employment and real wages. Industrial relocation to Mexico destroys jobs and depresses real earnings in the US and Canada.”[cxvii] The very origins of NAFTA reflect its uneven and unequal nature.



Throughout this process toward freer trade, net jobs are down, but certain niches are showing job creation United States. This constitutes new managerial and logistical based jobs. “Thousands of jobs in trucking, immigration law, business consulting and other areas have buoyed the economy”[cxviii] in San Diego specifically, as well as other border areas like Los Angeles. The “managers, designers and salespeople live on the US side while the labor intensive factories were in Mexico.”[cxix] These types of jobs are not the same sector as the jobs that are lost, nor can those displaced people easily transition to this type of high-skilled managerial work. Although “NAFTA supporters say the trade-off is in [San Diego’s] long-term under a program from workers certified as having lost jobs as a direct result of NAFTA were Latino."[cxxiv]

around time. The companies that did not have the capital and logistical capabilities to move over the border, remained in LA, as did those who had close direct markets locally. Job expansion that has occurred since NAFTA has included production assistants, managers, quality control inspectors, data entry workers, and import-export expeditor, but not production line work. These jobs require a different type of training and experience than the jobs lost in garment production and represent the growing discrepancy between jobs training and skill levels lost by NAFTA and those created.

The type of jobs that are most commonly and easily accessible for garment workers displaced by NAFTA are in other exploitative industries. Outside of the apparel industry "[m]uch of the current job growth is occurring in non-unionized industries with few benefits or advancement opportunities, including jobs such as ground-keeping laborers, food service workers, hand packers, and janitors."[cxxix] The Bureau of Labor Statistics "predicts that over the next decade seven out of the top 10 occupations with the most employment growth will be low-paying and only require short-term on-the-job training: nursing aides, orderlies and attendants; waiters and waitresses; janitors and cleaners; cashiers; food preparers and fast food servers; customer service representatives; and retail salespersons."[cxxx]

NAFTA targets low-income, immigrants, people of color, who work as apparel production workers in the Los Angeles area by decreasing their job security, keeping wages low or lowering them, and in general by setting a low standard for labor conditions and the treatment of workers. While these changes have occurred, there is little discussion about why NAFTA has brought about this shift. Defenders of NAFTA often hide these negative effects by overemphasizing the positive job growth or net changes. But such changes and the neglect of the apparel industry should not come as a surprise, based on NAFTA's structure, goals and the conditions under which is was developed.

General Explanations

Much of the discussion regarding NAFTA, particularly among politicians and business, is about details and specificities such as which jobs will be lost, how goods will be transported and how management will occur. But where much of the real tension stems from involve the basic structural inequalities associated with NAFTA. Arguments regarding NAFTA are fundamentally arguments about free trade. The concept of 'free trade' is commonly used by many but understood by few. It has been described in many different ways, but it is fundamentally the spread of capitalism through the opening of trade barriers. What Noam Chomsky calls the spread of the "Third World social model" is occurring with each step in the direction towards free trade. Increasingly production is "shifted to high-repression, low-wage areas and directed to privileged sectors in the global economy."[cxxxi] Through this process, the low-wage production areas become constrained and dependent on these market forces of demand, while the local socio-economic situation is maintained or worsened. At this same time, the privileged sectors retain their privilege and wealth. Public Citizen argues that:

> …calling NAFTA a 'trade' agreement is misleading, NAFTA is really an investment agreement. Its core provisions grant foreign investors a remarkable set of new rights and privileges that promote relocation abroad of factories and jobs and the privatization and deregulation of essential services, such as water, energy and health care.[cxxxii]

Free trade has come to be defined in terms of how it benefits the different players involved by assuming that production will naturally shift to the lowest cost areas when barriers are removed. For example, the Columbia University Encyclopedia has defined free trade as: "trade or commerce carried on without such restrictions as import duties, export bounties, domestic production subsidies, trade quotas, or import licenses." It goes on to explain that "the basic argument for free trade is based on the economic theory of comparative advantage: each region should concentrate on what it can produce most cheaply and efficiently and should exchange its products for those it is less able to produce economically."[cxxxiii] But this definition, widely shared by advocates and presumably neutral observers, does not speak to the costs that are endured to maintain such a system.

NAFTA's failure to uphold labor laws and support low-wage working communities comes directly from its elitist nature. The entire concept of NAFTA was originally based on relieving debt in Mexico by providing increased foreign investment, not high labor standards, new jobs, or general protections for working people. "NAFTA performs poorly because the objectives of the negotiating governments were dictated by the geopolitical interests of each administration as well as by a deep commitment to a neoconservative agenda."[cxxxiv] The entire basis of the agreement was discussed behind closed doors among business and government leaders, often whom overlap in both categories. The initial reasoning here would obviously benefit the government of Mexico which pays off its debt, and also the foreign investors who make money from new businesses in the Mexican market. Nowhere are the rights of working people represented in the primary discussions.

A variety of explanations for its implicit failure have been made. Such arguments encompass many factors that are underrepresented or unrepresented in NAFTA. In a very articulate criticism of NAFTA, Julie Erfani explains its failures:

> First, NAFTA lacks a bona fide social charter to standardize minimum wages and working conditions across the continent. Second, it fails to posit the long-term, transcontinental mobility of labor. Finally, it leaves in place the three signatory states' sovereign, legal authority over the movement and socioeconomic situations of people. This surviving legal-political framework of state sovereignty promises to perpetuate the vast socioeconomic inequalities already existing among peoples across the continent.[cxxxv]

Here Erfani touches on many of the main problems with NAFTA itself, beyond the premises under which it was constructed. NAFTA goes far beyond typical trade agreements by claiming it will save and create jobs and lead to prosperity in all the signatory countries. But NAFTA does not in fact detail how this will happen. It spends hundreds of pages on how different products will be treated and traded, but it scarcely mentions job protections and labor standards in the main text. It bases its positive effects on the general concepts of capitalism and free trade which have failed over and over again throughout the world for the region's poor.

Chapter 4: Inherent Inequalities: The Biased Nature of NAFTA and the Labor Assistance Programs

One of the main ways NAFTA impacts on the apparel industry originated, is through the structure and treatment of the Labor Advisory Committee, the North American Agreement on Labor Cooperation (NAALC) and the Trade Adjustment Assistance (TAA) programs. These side agreements and components involved in the upholding of labor rights as related to NAFTA were not only created under problematic conditions, but fail to adequately protect workers, therefore perpetuating poor labor conditions associated with free trade. The Labor Advisory Committee was treated as insignificant and its concerns and recommendations were only considered in passing. In addition, the concerns of labor and other groups were barely engaged in the creation of the side agreements. Furthermore, the labor side agreement that was created failed by not addressing important issues or adequately preserving the rights that all workers are entitled. The main labor side agreement, sp

The Labor Advisory Committee

The Labor Advisory Committee was established in the Trade Act of 1974 "to provide advice and information to the United States Trade Representative and the Secretary of Labor"[cxxxix] on the negotiation objectives and options before the country enters any foreign trade agreement. The circumstances around the implementation of this policy in regards to NAFTA were precarious, to say the least. "To give just one example of how debate was precluded, take the case of the Labor Advisory Committee (LAC)," writes Noam Chomsky. "The LAC, which is based in the unions, was informed that its report on NAFTA was due on September 9. The text of this intricate treaty was provided to it – one day before. In its report, the LAC notes, 'the Administration refused to permit any outside advice on the development of this document and refused to make a draft available for comment.'"[cxl] The process by which the LAC and labor concerns were included indicates an approach that was superficial and insincere. The side agreements created only a façade of labor standards and enforcement and did not give any real legitimacy to what the LAC reported.

The Labor Advisory Committee itself in its official Report on NAFTA acknowledges and criticizes the limited time for its legally mandated analysis:

> The [US] President's cynical rush to enter into an agreement with Mexico and Canada has rendered the congressional directive meaningless. While the agreement was announced on August 12, 1992, copies of a complete draft were not made available to the LAC until September 8, giving the Committee insufficient time to prepare its legally required report. This is subversion of the advisory process and a crass and unprecedented demonstration of political

manipulation—an effort to inhibit inform well as laws on minimum wages, health care and the elimination of child labor. Although not all of these concerns were adequately addressed, this report, along with numerous other voices, contributed to the creation of the side-agreements.

Labor Side Agreement

The Labor Side Agreements and Adjustment programs within NAFTA were intended to protect workers rights and provide some type of framework for this process. However, these bodies were not even discussed until a debate was generated by the public, NGOs and the LAC. Clinton realized the great importance of public opinion and he openly promoted the concerns of labor. One high profile American negotiator even admitted: "Because we initially thought that the NAFTA debate has no great public interest, we had tried to avoid raising its profile. Trade arguments can be confusing."[cxliv] This type of sentiment among decision makers and others in the United States is exactly the kind of thinking that leads towards problematic and selectively representative policies such as NAFTA. The assumption involved in this argument– that the public who will be drastically affected by this trade agreement should not be involved or not even told about NAFTA, especially during its formative period – is outrageous.

Although concerns about labor were eventually included in some form, they were not addressed in the main body of NAFTA. Robert E. Scott who has written extensively on NAFTA explains: "no protections were contained in the core of the agreement to maintain labor or environmental standards. As a result, NAFTA tilted the economic playing field in favor of investors, and against workers and the environment, resulting in a hemispheric "race to the bottom" in wages and environmental quality."[cxlv] The lack of labor concerns in NAFTA set the precedent for the agreement and gave some insight in its effects in the future. Despite the fact that the actual text of NAFTA explains one of its resolutions is to “create new employment opportunities and improve working conditions and living standards in their respective territories” and to “protect, enhance and enforce basic workers' rights,”[cxlvi] the agreement makes no real effort to ensure this or to protect jobs aside from the side agreements.

NAFTA has been praised by some and isolated as a unique case of integration of trade and labor and environment; however this is a misleading argument. NAFTA was never implicitly about the latter two issues. These concerns were addressed only after public protests in all three countries, the Zapatista revolt, and various complaints and concerns from Congress. Even during negotiations and the prospect of having to take more time and energy to develop a side agreement, Mexico urged for the passage of NAFTA without these protective measures. Others have expressed concerns that the creatt the 5(em)8.9(3nts. TJ18.2.430 TD0.0001 Tc-00003 Tc[(ths)]ae)p praymact th

Furthermore, the commission's findings "would be nonbinding and would carry only moral suasion."[cl] This weak type of structure explains the half-hearted precedent that was set at the time for labor and environmental concerns. These two issues, environment and labor, were simultaneously negotiated and not given the full specialized interest they required.

The main side agreement of NAFTA, the North American Agreement on Labor Cooperation (NAALC), was finalized and signed on September 13, 1993. Surrounded by suspicious circumstances and questionable support, it was eventually developed to create some type of protection for workers. The agreement itself sets areas of concern for each country but "do[es] not establish common minimum standards for their domestic law."[cli] Instead they merely "indicate broad areas of concern where the Parties have developed, each in its own way, laws, regulations, procedures and practices that protect the rights and interests of their respective workforces."[clii] This weak enforcement and promotion of universal policies stemmed partly from the fear of relinquishing sovereignty, especially from Mexico.

Beyond the conceptual outlines, the agreement set up an Evaluation Committee of Experts within the Council that would evaluate and report on labor violations. However, the only specified areas "punishable" by this Council are occupational safety and health, child labor or minimum wage technical labor standards. The agreement outlines 11 main "Labor Principles" including those three mentioned above (See Appendix). The remaining eight labor principles; prohibition of forced labor, nondiscrimination, equal pay for men and women, workers' compensation, migrant labor protection, freedom of association and protection of the right to organize, the right to bargain collectively and the right to strike; can be evaluated but do not share equal protection under the agreement. These areas, where most violations occur, are not “susceptible to the full range of treatment that includes review, evaluation, and arbitration, with possible application of sanctions.”[cliii] Furthermore the possible costs of violations of the country’s laws are restricted to $20 million in fines and/or trade sanctions. But as Hufbauer and Schott point out, “any trade sanction will apparently apply to total trade and not necessarily be directed against the specific firm or industry that is engaged in a pattern of labor abuse.”[cliv] Even the issues that lead to fines will not necessarily be directed in the right most effective areas.

The side agreement provides a mechanism for complaints to be filed by the public of one country against another country’s National Administrative Office (NAO). Reports of violations in the US will be filed with Mexico and/or Canada, so each country deals with cases from the other two. However, these discussions of labor violations only occur between governments, and not the individual companies.[clv] This becomes problematic when there is “no mechanism to sanction companies directly or to ensure that government agencies effectively enforce regulations.”[clvi] Critics have said that “at best NAALC did little more than create an apparatus for holding public meetings, which are often ignored by employers since the law itself provides no means to punish abuses”[clvii] by “recommending "ministerial consultations" -- a closed-door conference among government officials” as the strongest option.[clviii] Other options include “the writing of papers or the holding of workshops.”[clix] But none of these provide the necessary mechanisms of policy change to uphold the rights the signatory countries agreed upon.

The process by which violations of labor laws can be discussed through NAALC is a four step process. These steps are consultation, evaluation by a committee of experts, dispute resolution and fines or trade sanctions. However, there are flaws and misuse of this system, as the UCLA Center for Labor Research and Education report indicates. The UCLA Center found that as of March 2004, only 28 complaints had been filed, with just 15 of those completely reviewed under step one, and none had gone past the first stage of consultation. Further inadequacies are exposed by the fact that violations of workers unionizing attempts cannot be discussed past this level. Outcomes to reports of violations have thus far been inter-government discussions or forums, not any type of punishment. Once reports have been filed, there is little effort to get workers themselves or support groups involved in the decision making process thereafter.

The process has been found to be very slow, which is entirely unacceptable regarding such pressing issues such as safety and child labor.[clx] Studies have found the cases reported usually take 3 years for any action or decisions to be made. Part of this is due to the fact that the first consultation process has no time constraints. A study by the UCLA Center for Labor Research and Education found that of the 28 studies reported, none took less than a year and a half and most were still pending after 2 and a half years.[clxi] Even workers who know the correct avenues by which to file and have support networks, have been unable to improve working conditions in a timely matter under this system. As union representative in Mexico Enrique Hernandez says, “it’s hard to give any credibility to the labor side agreement, which was just a window dressing to get us to accept NAFTA to begin with. But we have to use the tools that are available to us.’”[clxii]

not prove usable or accessible to many workers, especially apparel workers who have little job security.

Many garment workers are often trapped in unfortunate circumstances; however the trade adjustment programs are not always accessible to those who most need them. “[M]any workers losing jobs don’t know they qualify for trade-related benefits”[clxv] often due to lack of knowledge or to inaccessibility of programs. A report by the General Accounting Office found “the federal programs for dislocated workers are underfunded, are not well-coordinated, have confusing eligibility requirements and do not provide adequate services for workers with limited English or less than a high school education.” This is especially problematic for the apparel industry since so many of the production workers do not speak English fluently, as immigrants do not know all of their rights, or do not have certain legal rights. Furthermore, this entire process completely disregards undocumented workers, who constitute a significant portion of the workforce in the apparel industry. These workers do not even have the option to apply for assistance from the government, yet they continue to contribute to the economy daily by producing and buying goods.

The TAA in relation to NAFTA has been so ineffective that in 2004 an association of workers in El Paso, Texas sued the United States Department of Labor regarding the inefficacy of this program. Their argument was based on violation of the TAA program for the poor administration of job training benefits for people with limited English proficiency (LEP) and for wasting taxpayers’ money on this ineffective program.[clxvi] The programs that the TAA did provide were inadequate considering the need for bilingual methods that can actually help displaced workers. To this date, no resolution to this case could be found.

Throughout the discussion of NAFTA and its labor impacts there were concerns of how supportive the programs would be. As one skeptical supporter points out, “while we supported conclusion of a NAFTA, we are concerned that the shift of attention to nonemployment issues risks underestimating potential NAFTA-related worker and community adjustment needs, and therefore, an undersizing of whatever adjustment package accompanies NAFTA.”[clxvii] Overall it has been found that the adjustment programs under NAFTA do not fit the needs of the workers, especially those with the most concerns. One particular study, by Howard Rosen of the Trade Adjustment Assistance Coalition, analyzed the labor market programs in the industrialized countries and found that in “both absolute and relative terms, US programs are embarrassingly limited in scope. The United States provides the lowest benefits package for the shortest period of all the major industrialized countries.”[clxviii] This same study found that “public expenditures on unemployment insurance as a percent of gross domestic product in the United States are approximately one-third of those in the United Kingdom and one-quarter of those in Canada, France and Germany.”[clxix] Other surveys have found that 19 of 46 state workforce agencies rated Trade Adjustment Assistance as ‘inadequate.’ The federal program got a much-needed updating in 2002, thanks to Baucus, Rosen, and others, but evidence is scarce so far that it works any better.[clxx] While some of these reports have gotten the attention of the government, many of the same problems persist.

Howard Rosen, Executive Director of the Trade Adjustment Assistance Coalition, acknowledges the need for trade assistance programs, but he too sees great room for further government enforcement and capabilities. “TAA is a necessary Band-Aid, but it's not the solution. The real problem is finding people new jobs.”[clxxi] Others say that “It's not that re-training is bad. Making such programs work better is, in fact, long overdue.” But the real problems lie in the nature and capabilities of such programs. And the truth remains that “the most serious consequence of NAFTA has been its failure to protect the rights of workers as promised by its supporters.”[clxxii]

close proximity the Center and where they can receive support and training. The Center provides monthly workshops about wage and hour laws, health and safety issues and discrimination.[clxxiv] This enables workers to learn first hand about the laws and standards in order to built community and organize among themselves. One of their goals is to "help bridge the gap between workers and organizing." Since less then 1% of garment workers are unionized workers lack structural support are left in unsafe situations on which they have little control.

There are a variety of ways that workers rights can be protected and the burden of NAFTA can be dealt with. Many of these and other efforts are being made by private groups. Considering the type of workers who are displaced due to NAFTA and the job opportunities available, there is a great need for improved job training programs, both from the government and private groups. These skills need to include, primarily English instruction, as well as managerial skills, computer skills, and other skills that can lead to upward mobility through jobs. Studies have found that people with English fluency earn more than those who do not, regardless of education. One suggestion for how this move can be made from government action is "to bypass the cumbersome bureaucracy by providing displaced workers with a training voucher that could be used for classroom training or given to employers for on-the-job training. This proposal empowers workers, but it also makes them more responsible for their own retraining decisions."[clxxv]

The federal trade adjustment programs need to be improved and expanded to provide more opportunities for more workers. In this same regard, citizen status need to be expanded to those who work in the United States and contribute to the economy, or eligibility for government programs should be expanded.

> "Los Angeles was built by immigrant labor. Many garment workers are immigrants who come as a result of life-threatening poverty and violence in their country. Immigrants do the dirtiest, most dangerous, and backbreaking jobs with little compensation while subjected to constant harassment, abuse, and injustice. Yet they are denied the basic life necessities like medical care, social services, and educational opportunities."

For these reasons, the immigrant heavy sector of the apparel industry need their legal status recognized to benefit from the adjustment programs provided by the government. As people contributing to the economy both in the industry they work in and their multiplier effects on other industries, immigrants deserve the benefits that come along with all others who work in the US. Federal programs should be extended to all who work, regardless of their legal status.

Incentives should be provided to employers who give the employees training and job replacement assistance. This way, businesses are given active roles as responsible employers who can work with the government instead of against it. Companies that are unionized should also be given financial incentives, possibly in the form of lower rent, lower purchasing costs, or tax relief.

Cities, states and other localities should support and promote responsible policies such as the Sweat Free procurement policies. These have been adopted in 30 cities across the country, 1 in Canada, and continue to be introduced in new areas. These policies require all government related purchasing to fit within specific labor standards in order to protect workers and improve working conditions. Independent monitoring systems, full-time city staff to oversee the policies, and education programs for other city staff ensure

implicitly include concerns for labor standards or support networks for workers. Bruce

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Preamble

The Government of the United States of America, the Government of Canada and the Government of the United Mexican States:

RECALLING their resolve in the North American Free Trade Agreement (NAFTA) to:

an expanded and secure market for the goods and services produced in their territories,

the competitiveness of their firms in global markets,

new employment opportunities and improve working conditions and living standards in their respective territories, and

, enhance and enforce basic workers' rights;

AFFIRMING their continuing respect for each Party's constitution and law;

DESIRING to build on their respective international commitments and to strengthen their cooperation on labor matters;

RECOGNIZING that their mutual prosperity depends on the promotion of competition based on innovation and rising levels of productivity and quality;

SEEKING to complement the economic opportunities created by the NAFTA with the human resource development, labor-management cooperation and continuous learning that characterize high-productivity economies;

ACKNOWLEDGING that protecting basic workers' rights will encourage firms to adopt high-productivity competitive strategies;

RESOLVED to promote, in accordance with their respective laws, high-skill, high-productivity economic development in North America by:

in continuous human resource development, including for entry into the workforce and during periods of unemployment;

employment security and career opportunities for all workers through referral and other employment services;

Objectives of the NAALC

1. To improve working conditions and living standards in each Party's territory.
2. To promote, to the maximum extent possible, the labor principles set out in the Agreement.
3. To encourage cooperation to promote innovation and rising levels of productivity and quality.
4. To encourage publication and exchange of information, data development and coordination, and joint studies to enhance mutually beneficial understanding of the laws and institutions governing labor in each Party's territory.
5. To pursue cooperative labor-related activities on the basis of mutual benefit.
6. To promote compliance with, and effective enforcement by each Party of, its labor law.
7. To foster transparency in the administration of labor law.

Obligations under the NAALC

Affirming full respect for each Party's constitution, each Party shall ensure that its labor laws and regulations provide for high labor standards, consistent with high quality and high productivity workplaces, and shall continue to strive to improve those standards in that light.

Each Party shall promote compliance with and effectively enforce its labor law through appropriate government action. Each Party shall ensure that its competent authorities give due consideration to any request for an investigation of an alleged violation of the Party's labor law.

Each Party shall ensure that persons with a legally recognized interest in a particular matter have appropriate access to tribunals for the enforcement of the Party's labor law. Each Party's law shall ensure that such persons may have recourse to procedures by which rights arising under its labor law and collective agreements can be enforced.

Each Party shall ensure that its proceedings for the enforcement of its labor law are fair, equitable and transparent. Each Party shall provide that final decisions on the merits of the case are in writing, made available without undue delay and based on information or evidence. Each Party shall provide the right to seek review and correction of final decisions. Each Party shall ensure that tribunals are impartial and independent. Each Party shall provide remedies to ensure the enforcement of their labor rights. Each Party may, as appropriate, adopt or maintain labor defense offices to represent or advise workers or their organizations.