



Part 1

General Considerations on Labor Rights





CHAPTER 1

Caribbean Basin Workers Search for Decent Treatment

Juan José Antonio García is not one to take up radical causes. He works hard. In the evenings he prefers a quiet life with his family; on Sunday he plays soccer with his friends. In early 1994, the twenty-six-year-old and his co-workers at La Exacta Ranch were aroused to action. Carlos Blanco, the ranch owner, had refused to pay them the legal minimum wage of 11.60 quetzals (\$2.00). In fact, Sr. Blanco would only promise half of that amount—6 quetzals (\$1.06) per day. So in early February, Juan José and several other workers endured the six-hour ride on the bus from their home near Coatepeque, Quetzaltenango, to Guatemala City. There, they visited the offices of the independent union confederation UNSITRAGUA, seeking advice about what to do.

Shortly thereafter, with the confederation's help, Juan José and several other ranch hands filed a court complaint concerning their pay along with an injunction that made it illegal to fire any worker until the wage question was resolved. They also took their first steps to organize a union. This infuriated Carlos Blanco and his managers, who not only disregarded the court injunction but demanded retribution from the organizers and sympathizers. "They fired 78 of us and replaced us with other workers, simply because we demanded our minimum wages," explained Juan José in a firm, sad voice. So after the July firings and nearly five months of court inaction on the wage issue or the protective injunction, "we finally determined that our only recourse was public attention." On July 17, the La Exacta campesinos occupied the *finca* (farm) in a sit-down action to protest the unfair terminations and their employer's refusal to pay minimum wages. Several weeks later, representatives from the Human Rights Procurator and Labor Ministry arrived to negotiate a settlement, but the company would accept no interference or compromise.



Yet few anticipated ranch owner Carlos Blanco's August 24 revenge. With guns blazing and helicopters hovering overhead, five hundred Guatemalan police and private security agents descended on the small group of La Exacta ranch hands. "When we heard the helicopters, we were terrified," recounts Juan José. "We wanted to run but we were there with women and children. The soldiers surrounded us and started to fire tear gas and bullets." Swat teams immediately killed Efraín Recinos Gómez and Basilio Pedro Carreto, shooting the latter in the back. They wounded eleven others and captured more than a hundred, including Diego Orozco García, a member of the union executive committee. Some hours later, they tossed his mutilated body from a helicopter furnished by a nearby landlord.

The La Exacta killings represent old-style traditional violence in the agro-export sector. However, they occurred less than two years after Guatemala had reformed its labor code to increase penalties against those violating minimum-wage laws. The code also purportedly improved court procedures to fine those blocking labor organizing. Despite the labor code, the group-imposed rules of Guatemala's traditional elite prevailed. After the occupation began, the ranch owner refused any agreement with national government officials and instead won a judgment for eviction from a local court. When the case became widely publicized, the police cited the eviction notice to justify their behavior, claiming that the campesinos had illegally occupied the land. The authorities were quick to brutally remove the workers, but not to enforce the wage law or court injunction.

In October 1994, the fired trade unionists elected Juan José as their leader. When he arrived in the U.S. to present his case to the United States Trade Representative (USTR), Juan José reflected on the union's status: "Because of the attack, four of the seventy-eight fired are now dead. Forty-four have left for other employment, and thirty of us continue to struggle for our union rights. Should we give up our demands, the ranch owner has offered to reinstate us and pay 19 quetzals a day which is what they are now paying the replacement workers. Of course we would have no protection in the future should they decide to lower the pay or do whatever they want to us. They don't want to recognize us. Our union has been granted legal status [*personalidad jurídica*] that we want to preserve. So we have not accepted their offer."

To counteract Carlos Blanco's refusal, the union waged a national effort, meeting with Monica Pinto, special delegate from the United Nations; Osvaldo Clayton of the Organization of American States; and Labor Minister Gladys Morfin. The parties made an attempt at reconciliation, but the talks broke off. During Spring 1995, Juan José and the La Exacta committeemen took the long bus ride to the capital to testify in labor-court proceedings. "We asked the government to investigate since the lives of our campesinos are at

stake. Our children are hungry and we need work. They say we are to have free organization in this country, but in reality it is not free.”¹ As of 1998, the unionized workers at La Exacta were still unemployed. Although the Organization of American States (OAS) had taken up their case, the local court petition for redress and back pay remained in limbo. While the Quetzaltenango police chief had been detained for questioning, no officials remained in custody for perpetrating the attack.

Far from being unique, the killings at La Exacta Ranch are but one of many similar military attacks in rural areas, for example against the Consejo Nacional de Trabajadores de Campo (CNTC), an organization of itinerant farmers in Honduras. “There are 160,000 landless families in Honduras, and we are starving to death” explained CNTC general secretary Oscar Mejía. “The landless peasant has nothing; no food, no water, no electricity, no health care, nothing. And yet there are huge amounts of land, much of it owned by the multinationals, which is left uncultivated.” Because of this, the campesinos had no choice but to occupy the unused tracts, even though over the past several years Honduran security forces had killed twenty CNTC members for doing so (NLC 1991:27).

But even when campesinos do hold title to the land, this is no protection from abuse. On May 3, 1991, more than a dozen uniformed troops under the command of Honduran Colonel Leonel Galindo opened fire on members of the Asociación Nacional de Campesinas de Honduras (ANACH). Court victory in hand, they had just settled a small plot of 28 hectares near Agua Caliente. The troops machine-gunned the unarmed ANACH unionists, killing five and seriously wounding seven more. “While lying there wounded and pleading for help, two of those killed were shot in the head at point-blank range” (NLC 1991:35).

Parallel with killings with impunity, threats also remain a traditional form of rural oppression in Central America (see Delgado González 1994). In another well-publicized Guatemalan occupation in August 1994, campesinos at the huge Spanish-owned San Gregorio rubber plantation acted after two and a half years of ineffectual court judgments. The Supreme Court itself had decreed that they had been fired unjustly, but no agency would enforce the remedy, so the workers finally occupied the finca. For several weeks, vitriolic diatribes in defense of private property filled Guatemala’s public media, with virtually no mention of the underlying issues or supportive court judgments. The plantation owner equated the union to “Basque terrorists.” Guatemalan President Ramiro de León Carpio threatened to expel any foreign supporters who ventured near the plantation. Army swat teams poised to attack. At the last moment, the dispute was resolved.

Likewise, in March 1998 more than 300 anti-riot police descended on work-



ers attempting to organize unions at several banana plantations that supply Del Monte Fresh Produce. Twenty-two workers had been illegally fired the previous month after obtaining a protective injunction. Firings also occurred on plantations producing for Chiquita. Following a work slowdown by sympathetic unions on other plantations, the police began house-to-house searches to locate and evict workers that sought affiliation with SITRABI banana union. After they left, a work stoppage led to more firings and a strike. It required considerable international pressure and personal visits by the vice ministers of labor and government to temporarily resolve the standoff, although workers remained vulnerable to arrest (NISGUA 1998; U.S./GLEP 1998).

La Exacta, Agua Caliente, San Gregorio, and Del Monte/Chiquita are all symptomatic of the enduring conflict between landholders claiming their privileges and workers evoking their rights to decent treatment. The cases reflect a much larger pattern of abuse of both rural and urban working people throughout Central America and the Caribbean. Despite legislated labor reforms in the early 1990s, workers in most Central American nations have questioned their usefulness. When employees invoked the law as a safeguard, they found that the institutions established to provide protection (the police, the courts, the ministries of labor) remained enmeshed in a system that encouraged private owners (and public managers) to disregard basic standards of worker treatment.

But La Exacta, Agua Caliente, San Gregorio, and Del Monte/Chiquita represent the traditional agricultural sector. As global trade and investment in *non*-traditional sectors increase, work conditions are projected to improve. This is one of the questions that is central to our investigation. Will trade modify the linkage between employer power and institutional subservience that has previously penetrated all segments of the society? When we consider labor activities in these areas of fresh investment, stretching from rural land and wage conflicts, to attempts at maquila union organizing, to privatization efforts of state enterprises, do we find changes from prior patterns, fewer delays in processing worker petitions, and reduced abuse, official bribery, and corruption? Has labor legislation and implementation proved a measure of success for non-traditional-sector workers? How do the workers themselves respond—those in the rural areas, in manufacturing, in maquila organizing and in state enterprises?

Rural Land and Wage Conflicts

Some Central American workers who labor in non-traditional export crops have earned higher incomes than in previous rural production. Nevertheless,

many have not (see Burnham et al. 1992; W. Ramírez et al. 1994). In 1995, for example, the \$2.70-per-day pay *standard* for Guatemalan agricultural workers remained among the lowest in the hemisphere and less than half of what most agricultural unions said they needed to meet living costs. However, all unions agree that *payment* of the legally required standard remains the primary issue. Rafael Can Chabac and Francisca Chinik of the Coordinación Nacional Indígena y Campesina (CONIC) and Carlo Lobos, who worked with the Centro de Investigación y Educación (CIEP), cited extensive noncompliance with current minimal standards throughout the country. CONIC has provided documentary evidence to successive Guatemalan labor ministers that at least sixty fincas in six departments paid below \$2.00 a day. In many, women were paid half the men's wage. Many of the fincas produced non-traditional crops.

Lobos had been threatened with death countless times because of his organizational activities. He told of the "Fincas Cadanom, and La Chote where they raise cardamom and peppers. Workers receive between three and four quetzals a day."² "Even less attention is paid to women in the countryside," pointed out CIEP's Adelia del Gado. "Often there is only one salary received in the family, and it goes to the man. Women are also not registered in government statistics for rural workers."³

Organizing Plant Workers

For many years, workers within the Central American and Caribbean industrial sectors have been valiantly struggling to organize. In Guatemala in the late 1970s and early 1980s, Coca-Cola workers led one of the most inspiring efforts against intimidation, arbitrary firings, and below-minimum standard pay. Before they solidified an effective contract in 1985, they had to endure two extensive plant occupations and the slaughter of eight of their leaders. In 1980, many of their brother and sister trade unionists in the Confederación Nacional de Trabajadores (CNT) were kidnapped and disappeared (see Albizúrez 1988; Frundt 1987b; Levenson-Estrada 1994). "To this date, I suffer," says the wife of one CNT leader who was taken in 1980. "I dream that he comes and looks for us. I don't dream of his being dead. . . . I only dream of him alive . . . a terrible anguish" (Reed and Brandow 1996:68).

Angel was another who lost a sister in that onslaught against CNT trade unionists. Angel remained active in labor activities. In 1988, two men and two women followed him to a picket line where they drugged and beat him and threatened him with death. A number of times since, he and members of his family have been followed and assaulted. He was forced to be vigilant "of the children's security twenty-four hours a day. When they go to school, my wife



and I are thinking of the hour they're going to leave and the hour they're going to arrive. . . . If at all possible, we pick them up" (quoted in Reed and Brandow 1996:43). Such consciousness still characterized the lives of many active trade unionists in Central America in the 1990s.

What also characterizes their lives is the society's disregard for the labor rights that *are* legally granted. From the day that women workers at one apparel plant won a dispute with management over forming a union in 1987, "management began to separate us from the rest of the plant. We were put into a kind of alleyway behind the factory, which we called 'the chicken coop' because it really wasn't suitable for 65 people to work in. . . . They even made us leave by another door. The supervisor told our other work mates not to associate with us because we unionists had leprosy and they could catch it!" (Hooks 1993:32). Tomas Jolón and twenty-three other unionists had a similar experience after winning union recognition at the Lunafil thread plant in 1988. Following a 410-day occupation and many death threats against union family members, the company recognized the union but isolated its members. "It becomes more difficult to negotiate a contract," explained Jolón. "We are at a disadvantage, because we haven't reached the number of members required by the law; 25% of the workers must be affiliated with the union to negotiate. . . . We now see that we can't have any hope. What the company did was to give the (wage) increase . . . to everyone . . . but no increase to union members" (Reed and Brandow 1996:138). Then, in May 1994, the company closed without paying salaries to anyone.

Inspired by the victory at Coca-Cola in Guatemala City, workers won union recognition in late 1992 at INCASA, a Coca-Cola franchise in Puerto Barrios on Guatemala's Atlantic Coast. The owner immediately fired the thirty-six activists. The case came before a local judge for what was usually a routine reinstatement pending a full hearing, but the owner offered the official an incentive sufficient to deny the workers' request. After eighteen months of legal battles, Rodolfo Robles, at the time leader of the Guatemala City Coca-Cola Union and general secretary of the Food Workers Federation, frustratingly described the outcome: "Twenty of the fired workers still out of work, accused of theft, and a phony plant bombing set off by the Puerto Barrios management. We have now lost in two courts. The union continues to exist as a legal entity, even though all members have been fired, some of their most important files have been lost, and the people are fearful because of the psychological pressure."⁴

Despite an agreement with the International Union of Food and Allied Workers (IUF) and Coca-Cola International in 1995, the INCASA owner never recognized the union. His intimidations prevented any fresh organizing drive or favorable court decisions. This time, a modern manufacturer was able to



subvert the law in face of considerable international pressure.

The labor picture in the Caribbean Basin's industrial sector is not bright. As recently as 1994 in Guatemala there were hundreds of death threats and more than thirty executions of union leaders. In Central America "there is a great force against unions," commented Enrique Alvarez, former head of the CIEP labor training Center. "Only one organizing campaign succeeds out of five or six, allowing many companies to function without unions. Many other unions have been destroyed. While there are fewer outright deaths and death threats than in the early 1980s when 80 percent of the trade-union leadership disappeared, now employers exert economic and psychological pressure to force employees to leave unions. Tactics encompass buy-outs (indemnization), employer-sponsored solidarity associations, and other benefits designed to divide unions. Leaders with less experience are facing these new tactics."⁵

Organizing in the Maquila Sector

Abuses have become especially pronounced in the rapidly growing apparel assembly factories. A few workers among the many, Lesley Rodriguez, Judith Yaniera Viera, Soida Alvarez, and the workers at Gabo Industries recount typical treatment.

Lesley Rodriguez

In 1994, fifteen-year-old Lesley Rodriguez reported to a U.S. Senate subcommittee about conditions at the Galaxy plant in Honduras.⁶ Since age thirteen she had been sewing sweaters and other apparel there for subcontractors like Liz Claiborne.

"We start at 7:30 a.m. until 7:00 p.m. Some days we work until 9:30 p.m. and even until 10:00 p.m. . . . Sometimes we work 80 hours a week. Management has set up a production quota so high that it is impossible for us to fill it. When we manage to do it, they increase it again the following day, so we are always behind the quota and under a lot of pressure. Many workers are forced to take their work home to be able to fill the quota set up by management. Where I work now, around 70 or 80 workers take their work home. Sometimes they work until 1:00 a.m. to finish it and they are not paid overtime. To go to work we have to get up at 5:30 a.m.

"We are searched when we arrive . . . we cannot talk during the day; if we do they scream at us and send us home with no pay, for four or five days. The supervisors are always shouting to work faster and faster. Sometimes they beat us on the head or on the back. Some supervisors like to touch the girls' behinds or breasts; some girls let them do it because they can get more money per week.

"We have no breaks during the day except for the half hour lunch. To go to



the bathroom we have to raise a hand and ask permission. Bathrooms are locked. We are allowed to go to the bathroom only twice a day . . . if we stay long they punish us.

“Because this factory produces sweaters, there is a lot of dust in the air and we cough a lot. Many workers have respiratory problems such as asthma or bronchitis. We have no health coverage and when we get sick they put us on leave without pay.”

Lesley had left school in the third grade to work and help her family. Although the factory managers promised her she could finish school, they did not end the work shift until 9:00 p.m. Finally, in 1993 she had enough and joined the union to force management “to treat us better and respect our rights.” When management found out, they dismissed thirty-five of Lesley’s co-workers and threatened the others.

But the employees fought back: “We went on strike; 600 workers participated.” Management reacted by firing more workers and “made a lot of promises that they did not keep.” They would “not allow Labor Inspectors to enter the factory.”

Lesley and her co-workers “would like the American people to know how much we suffer making these sweaters.” She learned “Liz Claiborne’s sweaters are sold for \$90. Here, I am paid \$.38/hour just to make them,” which works out to about \$21.50 a week. Honduras labor minister Cecilio Zavala responded that Lesley’s was an isolated case, not an indication of massive violations (*El Tiempo*, Nov. 25, 1994). But the young apparel worker said, “We have not just a hundred but thousands of testimonies like mine.”

Judith Yaniera Viera

Eighteen-year-old Judith Yaniera Viera tells a very similar story about her experience at the Mandarin maquiladora in El Salvador that assembles shirts for the GAP, Eddie Bauer, and J.C. Penney (quoted in Briggs and Kernaghan 1996:36–37). “From Monday to Thursday, our work shift went from seven in the morning until nine at night. On Fridays, we would work straight through the night, starting at 7 a.m. and working until 4 a.m. We would sleep overnight at the factory on the floor. The following day, we would work from 7 a.m. until 5 p.m.” With all these hours Judith would occasionally earn over \$40.00 a month.

“The supervisors often screamed at the women. They would slap us with the shirts and tell us to work faster. Even though we worked a 14-hour day, we were only permitted to go to the bathroom twice. Each time, we had to get a ticket from the supervisor, and then we were allowed no more than three to five minutes. It gets very hot in the plant, and the ventilation is poor. In the factory, the drinking water they give us is contaminated.”

Viera spoke of many underage women workers at Mandarin who were not allowed to go to school and of special punishments for those who did not agree to work overtime. Women were also “not allowed to go to an outside health clinic even though they deduct medical insurance from our pay.” They would have to go to the plant’s doctor, who often simply prescribed contraceptives so they wouldn’t become pregnant. Yet Viera also recounted being thoroughly frightened by Mandarin’s head of personnel, an ex-colonel who first propositioned and then followed her: When “the workers formed a union, the colonels hired thugs to beat up the union leaders. In June, 1995, the company fired more than 350 workers.” Thugs went to unionists’ homes and “demanded that they quit the union, saying that if they didn’t they would suffer the consequences.”

Finally, they tortured the union general secretary, and fired Judith and her two sisters. “We’ve all been blacklisted,” she reported the following month. “We cannot find new jobs.”

Soida Alvarez

Soida Alvarez is also out of work, even though she serves as union president of SEC Apparel Ltd., a company that employs 1,200 women in El Salvador’s Santa Bartolo Free Zone. They were able to organize “with great difficulty. I worked with these women to form a union and demand negotiations. The reason we wanted a union was because of the way we were treated. They beat us and then called us names like ‘stupid!’ ‘brute!’

“We made jackets and overalls. They were always introducing new styles. Because each style was distinct, we often had to change over the machines, putting in fresh thread, etc. This was a special problem for the recent hires. The managers would not allow sufficient time for the trainees to learn how to operate these machines or get up to speed in production quantity. This is when they would call us names. But then they took it a step further.

“Without us realizing it, they set us up in thirteen lines, sixty machines to a line. One line did special projects, but the rest of us were usually on the same project. When we finally did gain experience with a style, they would change the production goals and incentives from one day to another. For example, they might set a goal of 200 for a line for a day, and offer to pay an incentive over and above that: ‘move it up from 200 to 300 pieces,’ they would say, ‘and the extra pay is yours.’ Then once they got the production up, they would put a new goal in place, or they would do ‘efficiency studies’ and move the new base to 300, with no extra pay unless one did 400. So sometimes workers would refuse to increase their production. Then the supervisors would hang a watch around their neck, and say to them, ‘You *can* make the new goal!’”

They had twelve ‘*manuales*,’ one for each line, who would circulate and



ideally give each of the sixty a bathroom break. This had to be between 9:30 and 11:00 a.m. or 1:00 and 4:00 p.m., for at other times the lavatories were closed for cleaning. Yet only two could be excused at one time, since the management had issued two 'fichas' for each line, and they had to be returned before others could go. So we were allowed four minutes to go to the bathroom, which was difficult to accomplish. If we returned late, we risked having to pay a 'damage' payment of 36 colons per minute. With everyone from the various lines crowding into the bathrooms, this could sometimes be difficult to avoid.

"While on the line, we needed to ask to have water. When permission came, the water was often not potable; sometimes it was very yellow and would make us sick. Occasionally, they would put in chlorine, but that did not change its composition. We also could not have fans (except for a few in the ceiling). The heat sometimes would become so intense, we would ask to be excused at noon; they always said 'no.'

"So this is why we began to form a union in October 1993. They did not find out about it for another year, but then, on October 26, 1994, they fired 200 on the spot, using the excuse that we did not have enough raw materials to work with. But they only let go those in the union, and we discovered plenty of basic material in the warehouse. We went to the minister of labor, the procurator of human rights, and to the various courts to demand justice. We were able to get seven of our directors rehired but the company does not want to rehire the rest of us."⁷

The Gabo Case

Workers at Gabo del Salvador describe how they came to form a union in Spring 1995. Gabo's 500 workers produce apparel for export in a complex of five huge semicircular prefabricated sheds that take up nearly a third of the San Marcos Export Processing Zone (EPZ) compound. Normally, their work shift is from 7:00 a.m. to 7:00 p.m. Bertha, a young mother of a six-year-old, recounted rising at 5:00 a.m. each day to catch the bus to work, and returning home at 8:30 p.m. Her costs, including round trip and baby care, totaled 39 colons (almost \$5.00), nearly equivalent to her salary, but there was no other work to be found where she lived. Work requirements were stringent; in years previous the company fired at least two women for becoming pregnant. Then, in March 1995 a woman died of a burst appendix. At first Gabo management denied her permission to leave to see the doctor. When they finally allowed her to leave during her lunch break, she discovered that the hospital clinic would not accept her insurance card. Although the company had deducted

medical coverage costs from her pay, it had not submitted those payments to El Salvador's Institute for Social Security. During the previous six months, Gabo had failed to send in funds for half of its employees. The government investigated and allegedly found that ten companies in the free zone were not forwarding the fee. The workers believed the number was undoubtedly higher.

When the workers discovered the cause of their co-worker's death, their anger deepened to anguish. To make matters worse, the company refused to allow them to attend her funeral. When eighteen disregarded management's mandate, they were summarily fired. Gabo also balked at complying with the labor-code requirement that the company must pay two months' salary to cover funeral expenses and education of the deceased's offspring. Anguish broadened. The workers blocked the EPZ gates where Gabo was located, permitting no one to enter. At the same time, the eighteen who were fired also formed a union.

The company agreed to rehire those fired and to provide 1,000 colones (\$125.00) for funeral and education expenses. This minimal response infuriated other workers, and soon a hundred signed up. In turn, Gabo management retaliated, "enticing the workers with other things, such as an excursion to the beach on Saturdays or extending work hours to keep them away from attending our assembly," said one organizer. As the cluster waited for the 7 p.m. shift to let out, security police sauntered by, eyeing the group suspiciously. The young woman organizer quickly responded about how important the Saturday meeting was: It would take another 151 union members before they could demand negotiations on a contract.⁸

The testimonies from the three women and those at Gabo are not universally shared. Some workers view maquila work as preferable to hard labor on the farm. Eber Orellana Vásquez gives "thanks to the maquila . . . my monthly income is seven times what I made in the countryside." Vásquez had milked cows on a dairy ranch, and every time he visited, everyone wanted "to come back with me. The work there is very hard . . . and the bosses are always mean" (Rohter 1996a:A14).

Most researchers and labor leaders agree, however, that the women's experiences are typical in regional maquila (see Safa 1995, 1997 on the Dominican). In the last half of the 1990s, "violations repeat themselves over and over," elaborated Nelson González, textile organizing director at the Federación de Asociaciones y Sindicatos Independientes de El Salvador (FEASIES), the labor federation that helped to organize the Gabo workers. "Workers face mandatory overtime, and they are not even paid for the extra hours. If they don't work extra hours, companies dock their "Sunday" pay.⁹ Companies also are



not contributing to the government-sponsored health plan, or any plan. Like Gabo, the Hang Chung plant with 1,000 workers and Lindo Text with 500 would prefer to offer pregnant women 3,000 colones to resign.”

“The majority of workers suffer violations of both labor and human rights, especially firings,” stressed Carlos Hurtado, a leader of the Confederación de Trabajadores Democraticos (CTD). “As at Mandarin International, other companies have also increased production speed-ups. We have documented sexual mistreatment and striking of women. Some have died while working.”¹⁰

“When maquila employers seek to justify their firings, they say they need to reduce their work force,” said Mario Lutini of the Guatel Union, “but really they turn over their workforce to avoid facing a *pliego de peticiones* [list of complaints]. This is because they demonstrate the greatest human rights and labor rights violations—against women who have children to care for.” As Adelia del Gado noted, “70% of those working in the maquila are women,” and they find “it very difficult” to blow any whistles.¹¹

“In 1990 they were paid 57c/hour; in 1995 it had fallen to 27c,” explained Miguel Ramírez, head of the Federación Sindical de Trabajadores de El Salvador (FESTRAES). There is great corruption. They rob workers of their assigned quotas. Only 40% pay minimum salary, or they pay the minimum for eight hours, but they require work for two to four more. Out of 1,800,000 workers in the country, only 350,000 have daily employment.”¹²

Perhaps the greatest fear of owners is “labor insurgence” in the maquila factories, something they publicly linked to the occupations at La Exacta, San Gregorio, and other instances of union militancy, whether in traditional or non-traditional sectors.

“We have a large number of workers and five export processing zones (EPZs) that are unorganized,” emphasized Nelson González. “The government is threatening to open up more where they won’t permit free organization. Our object is to organize so that we can motivate the free zone employers to respect the labor laws. While the majority of owners are Korean and Japanese, a small number are from the U.S. In any case, the Koreans etc. also have distribution houses in Miami and New York. We are in favor of generating employment, but not without guaranteeing labor rights. The companies respond that if we organize they will go to Guatemala, Honduras, Nicaragua, and ultimately to Haiti, so many are afraid.”¹³

“Abuses have definitely increased in the last year, and many women are attempting to form unions,” stated Carlos Hurtado of the CTD, which backed the union organizing efforts of Soida Alvarez and Judith Yaniera Viera.¹⁴ Hurtado and González, as well as Lesley Rodriguez, Judith Yaniera Viera, Soida Alvarez, and the Gabo workers all admit that under current conditions,

this is something very difficult to accomplish (see also U.S. Department of Labor 1990).

Carlos González Méndez works at the textile plant Industrial Nacional (INSINCA). Because of a conflict in 1989, the owners there fired 250 employees, including Carlos and other members of the union executive committee. “For the past seven years, we have been trying to get back to work,” said Carlos. After a court order, the company agreed to pay salaries to four members of the committee, including Carlos. “But they won’t let us enter the plant, afraid we will convince others. The Minister of Labor has decreed that it is illegal to prevent contact with other workers in the company, but the company continues to do so. The case has gone back to the Ministry, but it has not taken further action.”¹⁵

Concerns of Public Workers

Despite globalization, death threats and kidnappings remain a primary method of discouraging labor participation in Caribbean Basin societies; firings and intimidation also play an important role. However, the more apparently benign but often arbitrary modification of work structures can also have far-reaching implications, especially among the largely unionized public-sector workers. Nowhere is the change more apparent than in recent government decisions to “privatize” traditional areas of state services. Popular among conservative U.S. lawmakers, the sale of government properties (telephones, airlines) and the contracting out of activities (from road building to health) are suddenly becoming expedient ways of reducing state budgets in Central America and the Caribbean as they have in South America (see Accolla 1989).

Privatization Without Negotiations

While state-sector unions realize the potential damage that privatization portends, they also allow for possible social benefits. Their main concern is that the workers are completely excluded from any discussions that would afford them an opportunity to present their perspectives on cost-savings and assurances of employment. Both they and private-sector unions also fear the impact on services. “They want to privatize education in a country largely illiterate, to privatize health, telecommunications, essential services, even natural resources such as rivers . . . all will favor the rich,” insisted Nery Barrios, former leader of the Guatemalan grassroots coalition Unidad Accion Sindical y Popular (UASP) and current labor advisor to the Congressional Labor Committee.¹⁶



“Since the end of 1995, they have reinforced decree 471 to allow terminations to make the public sector ‘more suitable,’” reported Mario Vasquez, director of public information for the Salvadoran labor federation FEASIES. “Some were voluntary retirements, but the objective was to eliminate the union leadership.

“Public sector strikes and marches helped obtain some benefits; but the goal of decree 471 is to prevent union resistance in all institutions: the telephone workers, the electrical workers, the workers in pensions and social security—all among the strongest unions. Fear among workers is high. The government is investing 400,000 colones to promote privatization and advertise what is good for the workers, but the sale of properties [e.g., the Asociación Nacional de Telecomunicaciones telephone company, ANTEL] will go to friends of the ARENA party now in power. We don’t have the funds to show how these institutions guarantee that certain basic services reach more people. The government seeks short-term funds; but does not consider the longer term benefits that will help the people. It is an ugly situation; after the signing of the peace accords, they are moving against both the maquila workers and the public sector workers. It is not easy to reinforce union solidarity.”

In Guatemala, Alvaro Arzú, elected president in 1996, gave greater attention to human rights (see Garst 1996). However, in line with the presidents in El Salvador and Costa Rica, he also committed his administration to large scale privatization. “Fundamentally, we find ourselves in a new world economic situation, and Guatemala is not an exception,” explained Sergio Guzman, leader of the Unión Sindical de Trabajadores de Guatemala (UNSI-TRAGUA). “Some of the state institutions, supposedly created to benefit workers, have passed to private control such as INCAP and the Banco de Trabajadores. The neo-liberal government imposed an anti-strike law on the public sector to achieve ‘flexibility,’ not only opposing the right to strike, *but also* challenging the right to unionize. In Guatemala, as on a world level, unions are seen as an obstacle. The current government is doing nothing regarding poverty, much less the living conditions of workers, while business seeks even lower taxes.”¹⁷

Case in Point: Privatization at a Public Hospital

The Esquintla Regional Hospital in Guatemala offers a complex but revealing example of workers being excluded from the privatization process, and the consequent impact this portends for services to the poor. The hospital was constructed in 1981, a four-story modern building of about a hundred beds on the regional capital’s outskirts along the road to El Salvador. In just over a decade, it was in disrepair, with ceilings falling, Formica peeling from nursing-station counters, and no backup water system. By 1995, the hospital did



not have sufficient medicines or materials to meet the needs of southern coast workers, many of whom were admits from accidents in the sugar fields. The half-full men's ward smelled of urine. Little babies at risk were supplied with oxygen, but by the end of the week, the supplies had been depleted.

According to registered nurse Ericka Aziza Tuch, general secretary of the Esquintla Hospital Workers Union, and several of her companions, conditions had worsened after 1991 when the government cut back funding for its four regional hospitals. Besides general deterioration at the Esquintla facility, the sweltering heat in the operating area caused acute concern. Engineers from Fundazucar, a private foundation supported by the nation's wealthy landowners and sugar producers, offered to install air conditioning. At first the hospital staff appreciated their involvement, but according to Sra. Aziza Tuch, soon Fundazucar rehabilitated and took control of the hospital's outpatient building.¹⁸ None of the new employees in outpatient services were members of the union.

Union workers say Fundazucar signed a pilot agreement with the Ministry of Health to set up the outpatient clinic as a self-financed unity in exchange for tax breaks on sugar: "In spite of a guarantee for health services under the constitution, each patient is required to pay \$1 [or half a day's minimum salary] for the first consultation. Then they have to pay additional fees for clinic-related expenses. Thus, the sugar owners are making money from the take-over," explained Ericka Aziza. "Japan donated an electrocardiogram machine to the hospital, yet the clinic uses it and charges the patients well beyond cost for each use." The union leaders claimed that Fundazucar also used state-funded buildings and hospital services and equipment (such as telephone, light, water, medical services, laundry, laboratories, supplies such as photocopying, anesthesiology, and several other services), reducing funds available for hospital operations. Some doctors also received double salaries, even though they only work in the clinic area. When confronted, the local hospital administrator would neither confirm nor deny the charges.¹⁹

The situation was exacerbated in March 1994 during a national public-workers' strike that shut down the entire Esquintla facility. Ericka Aziza received threats for her organizing efforts. "We have great fear about what will happen to us, to all the workers here!" she said. "We know they are planning to cut personnel, but they have not discussed anything with us. Several times, we have sought meetings with the Minister, Vice Minister and Attorney for the health department, but they refuse to see us. Most of all, we want to offer our positions and have our questions answered. What are the Fund's expenses, and its plans for the future? We are willing to discuss what is good and bad about the present situation, but wish to protect our rights."²⁰

For working people, hospital "privatization" is just one example of exclud-



ing union members from discussing plans to reorganize state agencies. Like others, the 130 union members at the Esquintla Regional Hospital foresaw greater privatization ahead, with potential job losses to themselves. Major regional hospitals in Coban, Chiquimula, and Quetzaltenango became involved in similar arrangements, often with Fundazucar. In 1997, the Guatemalan Congress passed a revised health code that imposed fees for all services, with subsidies for the poor.

Other Areas of Privatization

Workers had similar reactions to other types of privatization. In 1993, Carlo Lobos, general secretary of the Public Workers Union in the department of Alta Verapaz, Guatemala, anticipated privatization and union disappearances in road construction. The ministry stated the workers lacked “sufficient business skills.” When his union protested, “services awarded to outside contractors, many were illicitly fired.”²¹ In December 1992, fifty-four workers were ordered reinstated from the Coban Public Works Department; union activity was the cause of their firing, and in violation of accords that the government of Guatemala signed with the ILO. Lobos explained that “union activists, including myself, have been persistently threatened with claims that we are members of guerilla organizations.”²² By July 1996, the Arzú government had laid off 2,500 public-sector workers.

Rail, electric, and telephone companies also went on the privatization block. “We have shown what we can do,” elaborated Mario Lutini from the Guatel (telephone) Workers Union. “We earned 242 million quetzals [\$450,000] in 1993, and have used it on 18 new projects. Between 1994 and 1995 we expanded our lines from 235,000 to 288,000 customers. The telephone company is one of the most profitable, so they all want it. The company’s president has not answered our requests for a direct discussion.” Lutini predicted that under privatization, services would be cut in rural areas.

Structural Factors in the Enforcement of Labor Rights

These experiences of Caribbean Basin workers in rural, urban, maquila, and state sectors all reveal a persistent pattern of rights abuse unaffected by increased trade. As one municipal unionists puts it, “When a worker knows the labor laws, employers don’t let them keep their jobs because they say they’re going to organize the people.”²³ But underlying this pattern is the failure of social institutions. It is difficult for readers north of the Rio Grande to appreciate the virtual paralysis of state funded institutions in carrying out and enforcing the basic labor rights that legally exist in Basin countries. Unionists describe the courts and the labor ministry as an instance.



Judicial Bottlenecks

When facing direct threats or privatization, or simply when thwarted by the refusal of business to negotiate, unions are citing constitutional requirements that collective bargaining is obligatory. However, there is no effective institutional mechanism to assure this will happen.

As an illustration, Guatemala's 1992 reformed labor code separated labor or "collective" cases from individual cases in an effort to improve court procedures. For the former, it mandated "Tribunals of Conciliation and Arbitration" that would be conducted by representatives from management and labor. Instead of creating parallel courts as the labor-code reform stipulated, by 1994 the Supreme Court had only established one court, located in several offices on one floor of a building, to resolve the entire nation's labor disputes. Facing a single court brought all labor conflict cases to a standstill since virtually no disputes could be resolved. Many union leaders thought the change had been purposefully rigged to fail. "The system is insufficient to handle the volume of cases.²⁴ The courts have become more and more behind in their work," said Mario Lutini. "Even if they weren't afraid, campesinos can't travel to the offices here. It is hard enough for us to do so. Thus nothing moves."

Judge Raul Alfredo Pimentel Afreed acknowledged the problems, including the "lack of funding" and "failure of the tribunals." The court administrator and staff openly admitted that it was impossible for those who depended on daily wages to travel to the capital from all over the country to participate in lengthy deliberations. The administrator also cited the lack of direct phone lines or proper equipment necessary for handling the cases. Labor representatives demanded budget modifications and funding so that the court system would begin to function (see chapter 8).

Court conditions may differ in other countries of the region. In Panama, for example, labor representatives believe current procedures are effective and are striving to protect them. But in most area nations, leaders say that court processes are entangled in political pressures and are notoriously encumbered.

Slow Reform at the Ministry of Labor

Workers also believed that most labor ministries were not seriously enforcing the labor laws. Common complaints were that when the labor inspectors did in fact travel to a labor site, they were easily threatened or bribed. Unions sought a purging of corrupt inspectors. In 1995, the Guatemalan minister herself acknowledged the legitimacy of these complaints.

The Guatemalan Economic Ministry had also taken no action to deny export licenses to corporate violators. Guatemalan law encourages consultation if companies violate worker rights, an action the ministry could take without



having to rely on the judicial system. “How many export licenses have been denied to worker rights violators in the export sector since July? In 1994 overall? If none, why?” Congressman George Brown asked these questions of USTR ambassador Michael Kantor on September 9, 1995. “It seems a good indicator of how committed the government is to promoting respect for worker rights.”²⁵

Labor Rights and the Private Sector

Underlying the key immediate issues of threats, arbitrary firings, minimum-wage violations, court bottlenecks, mandated privatization, and dilatory ministry reform is the negative attitude toward labor rights in the private sector. Labor advisor Enrique Alvarez defines the lack of political will as a regional problem for both government officials and employers, something globalization has not changed “except for appearances. In the maquila, they still fire women if they are pregnant, or they give medicines that causes abortions or eliminate sexual interest.” Alvarez also offered the example of a coffee agreement that agro-exporters signed with several Guatemalan campesino unions in 1994. “It seems like a change, but in fact, it was designed to prevent a bigger wage increase. The agro-exporters often still didn’t pay the salaries anyway.”²⁶

Most government officials and union leaders agree that the number of enlightened businessmen remains minuscule. “When we sign an agreement,” notes labor leader and former congressman Juan Francisco Alfaro, “the employers say all is well, but in fact little is well. Union liberty is jeopardized. Potential leaders are fired. . . . They seek to make sure there are only a minimum number of union members so they will not have to negotiate.”²⁷

Rather than seek agreements for labor peace, the hope among many exporters is that Guatemala will soon become part of NAFTA or a similar regional trade agreement that will eliminate GSP labor-rights requirements. From 1994 through May 1997, Guatemalan businesspeople mounted an intensive lobbying campaign to remove GSP scrutiny, but local leaders say they made little effort to talk with labor. Most Guatemalan trade unions gave up their hope for any tripartite business-government-labor dialogue.

This chapter reviews how labor leaders and workers in Central America and the Caribbean perceive employment conditions. They make few distinctions between practices in traditional and nontraditional sectors, suggesting that enhanced trade has not conveyed labor-rights improvements. For example, they report widespread intimidation against union organizing, especially in the maquila sector.



Do the thwarted expectations of these trade unionists present a biased assessment of trade impact throughout the Caribbean Basin? While their views reflect a broad survey of opinion from major labor confederations (notably in Guatemala and El Salvador), they may not accurately reflect the full reality. The answer leads us to the debate about how labor rights are best achieved.

