



MEMO

WOLA WASHINGTON OFFICE ON LATIN AMERICA

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In just a few weeks, members of the U.S. Senate will have to cast their votes in favor or against the U.S.-Peru Free Trade Promotion Authority. Before deciding which way to vote, you and your boss should consider two fundamental questions:

- 1) Will the U.S. trade agreement with Peru promote and protect labor rights for the majority of the Peruvians?
- 2) Will the trade agreement reduce poverty and inequality endemic to Peru?

To help you in your considerations, WOLA offers you the following information:

Will the US Peru TPA promote and protect labor rights for the majority of Peruvians?

Recent congressional debates on pending free trade agreements have rightly focused on labor violations in Colombia. But like most Latin American countries, Peru is not immune to charges of brutal labor rights violations. Since the beginning of the year, PLADES (the Peruvian Labor Program for Development) has reported 37 violations of labor rights in national and multinational organizations. These include:

- During the month of June 2007 115 workers in all were fired from the Topy Top Textile Company in retaliation for forming a union in order to negotiate labor conditions directly with the company. In firing the workers, the management attempted to destroy any union organizing efforts in the company. The case of the fired workers was taken up by the International Federation of Textile Workers and only through international pressure were they reinstated. Topy Top is the second largest textile exporter in Peru, manufacturing for such brand names as GAP.
- Since the beginning of 2007, there have been various labor disputes in mining companies throughout Peru due to harsh working conditions and unremunerated work. In June, 300 workers in the Casapalca Mines were fired after organizing a union to improve working conditions; of the 300 fired, 34 were union leaders. The conflict escalated with violent confrontations that left 4 people dead. The workers' principle demand was to normalize the contracts of the 90% of workers laboring under temporary contracts (more on this below). The Casapalca Mines are located in the mountain range near Lima.
- Also in 2007, 4,000 workers of the company Sociedad Viru, an agro-exporting company, went on strike because of precarious labor conditions. The company responded by repressing the strike and arresting several of the workers. Sociedad Viru is the Peru's principal exporter of asparagus.

But will a trade deal resolve these problems? An affirmative answer is conceivable for the limited number of workers who have permanent, stable employment, in companies with more than 20 employees.¹ However, it is important to know that the majority of jobs in the

formal sector are time limited contracts or jobs that are subcontracted, that is to say, not directly hired by the company. According to the Peruvian Alliance for Labor Rights, 80% of the workers nationally are employed by contracting or temporary agencies.² For example, the aforementioned Casapalca Mining Company only has 200 out of 1900 employees listed on the company payroll, the rest are contract workers. These workers have no job security, do not enjoy fundamental labor rights or are eligible to receive benefits such as social security, vacations or extra pay for overtime work.³ The system of fixed labor contracts and subcontracting severely undermines Peruvian's ability to exercise their rights. This situation affects the majority of workers in Peru, and is an effective management tool for controlling workers, preventing union organizing and reducing labor costs.

To change the precarious labor situation, Peruvians have lobbied for the passage of the General Labor Law (Ley General de Trabajo,) since 2001. The Law would unify existing labor regulations and mechanisms, and would define individual work relationships tied directly to a worker's ability to exercise fundamental labor rights according to international standards. Significantly, the Law would also clarify when different labor arrangements (permanent, temporary, sub-contracting e.g.) can be used. It would also provide greater worker protection against arbitrary firings and include would legally establish the right to job reinstatement in cases where no just cause for dismissal could be found. Finally, the General Labor Law would reestablish the right to collective bargaining by sector or industry versus the current law which only allows workers in individual companies to negotiate.

Peruvians are also calling for other reforms such as only permitting subcontracting or fixed labor contracts to 10% of employees of any given company and reducing the number of workers needed to form a union from 20 to 9 given that the majority of Peruvian companies have less than twenty employees. Proactively, workers are also calling for an increase in the labor ministry's budget from 0.39% to no less than 2%, and the hiring of an additional 1,000 new labor inspectors.

Even the ILO has said that the Peruvian government needs to change labor laws to be in compliance with international treaties. In essence, the ILO is calling for the government to restore labor rights eliminated during the reign of Alberto Fujimori, specifically those laws related to collective bargaining.⁴ The General Labor Law and other reforms, not the US Peru TPA or presidential decrees issued by Garcia, will do more to guarantee Peruvians' ability to exercise fundamental labor rights.

Will the US Peru TPA reduce poverty and inequality endemic to Peru, especially in the rural sector?

Similar to other Latin American countries, Peru is marked by high inequality. According to ENAHO (the National Census of Homes, 2004) the richest 10% earn 29 times more than the 10% poorest in the country. Furthermore, according to the Ministry of Labor and Employment Promotion, 63% of the economically active population receives less than or equal to the minimal salary which is equal to roughly \$160 per month. The 50% living in

poverty subsides on a little under \$58 a month, sinking to \$32 a month for the 20% living in extreme poverty.

One of the biggest concerns with the US Peru TPA is the impact it will have on Peruvian rural producers and workers. Agriculture is an integral part of Peru's economy with nearly a third of the population depending on this sector for their livelihood. After a thorough analysis of the trade text on agriculture, the Peruvian National Convention on Agriculture (CONVEAGRO) estimated that close to 1.7 million Peruvian farmers will be negatively affected by the agreement. They will be affected because if passed, the trade agreement will require the Peruvian government to cut tariffs on two-thirds of US farm exports impacting locally grown products sensitive to import competition. Peruvian farmers will have to compete with heavily subsidized products from US agribusinesses. The U.S. agricultural subsidies constitute unfair competition for Peruvian agricultural goods and will impoverish producers of cotton, corn, barley, wheat, oilseeds and dairy products.

Poverty is already high in the rural sector with the National Institute of Statistics and Information reporting a poverty rate of 69.3%. Recognizing the potential impact, the Peruvian government under President Toledo attempted to apply Special Agricultural Safeguards to protect the sector as permitted under WTO rules but the USTR insisted that Peru renounce these rights. To make matters worse, the trade agreement regulations on investments and preferential treatment make it difficult for the Peruvian government to have the policy flexibility it needs to promote alternative forms of economic development or protect vulnerable sectors.

The US Peru TPA will not protect labor rights or reduce poverty. As, the May 16, 2007 Wall Street Journal editorial stated, this is a relatively minor trade deal for the US. However, as noted above, it has enormous implications for Peru. WOLA strongly urges your boss to vote against this agreement.

The Washington Office on Latin America (WOLA) is a non-governmental organization located in Washington, DC, that promotes human rights, democracy, and social and economic development in Latin America and the Caribbean

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1. Under Peruvian law a company must have more than 20 employees in order for its workers to form a union.
 2. The Alliance for Labor Rights includes the (Confederação Geral dos Trabalhadores Portugueses (CGTP), Instituto de Estudios Sindicales (IESI), Central Unitaria de Trabajadores (CUT), Programa Laboral de Desarrollo (PLADES) Labor Program on Development (CEDAL), and The Peruvian Network for a Globalization with Equity (Red GE).
 3. A 2007 ILO report states that Peru heads the list of countries where of half the workers work more than 48 hours a week. The ILO report states that this is due to low productivity levels, requiring longer work hours to receive more pay, and due to the labor instability caused by contract work.
 4. International Labor Organization.
http://www.oit.org.pe/osra/documentos/prgroma_nacional_de_trabajo_decented_pntd_peru.pdf. The level of unionization in Peru dropped from 33% of the EAP in 1982 to 5% in 1990 and 3% in 1999. In the last five years, unionization has increased to 8.63%.