

# TOWARD A CENTRAL AMERICAN FAIR TRADE AGREEMENT

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## **Abstract**

The paper presents an argument for the political potential of civil society in the formulation of international trade agreements and the role social workers can play in facilitating civil and political participation. It uses the case of the debate over the Central American Free Trade Agreement (CAFTA) in Costa Rica to illustrate both the political problems free trade agreements engender and the forms of political participation emerging in response. The paper's fundamental claim is that while free trade treaties can erode human economic and political rights, civic and political rights can be strengthened through direct participation in the formation of "fair" trade agreements.

In February 2007, a poll conducted by the Costa Rican newspaper *Al Día* found that 47.2% of Costa Ricans supported ratification of the Central American Free Trade Agreement (CAFTA) and 34% opposed it (Rojas 2007). Given that many members of dominant Central American political parties had vested financial interests in ratification (Audley, Papademetriou, Polaski, and Vaughan 2004), it is not surprising that the Costa Rican legislative assembly created a special review committee to fast-track the treaty through the legislative process, an exception-making occurrence that mimics what Seyla Benhabib (2006) has observed globally. Those opposing the trade agreement nonetheless responded vehemently to the attempt to bypass debate.

In late February 2007, some 200,000 protestors marched, and opposition leaders succeeded in initiating a signature collection that pressured President Oscar Arias to authorize a referendum that would allow voters to choose whether to ratify or reject CAFTA (McPhaul 2007). Said Arias, “For the first time, Costa Ricans... will be able to directly decide the future of a very important law for the country” (as quoted in McPhaul 2007, ¶3). On October 7, 2007, 60% of the Costa Rican electorate took to the polls (Oviedo 2007), and by a margin of 49,030 votes, or 3.2 percentage points, the treaty was ratified (Rodríguez 2007). Though the opposition lost the vote, it had successfully politicized trade policy and helped form a social movement.

This paper argues that resistance to CAFTA is evidence that there are arguments against status quo trade politics demanding to be heard. It uses the Costa Rican case to explore the possibilities of civil society contestation of existing trade agreements.

Theoretically, the domestic policies of nations like Costa Rica are embedded within, or must be changed to accommodate, international norms dictated by bilateral and multilateral agreements, such as CAFTA. In Costa Rica, certain CAFTA provisions might require amendment to the constitution (Solís 2007a). Thus, domestic policy becomes subordinate to international trade policy. The discrepancy between global economic integration and local politics has deleterious consequences for much of the world’s population. Decisions that have profound impacts are made

at a great distance and with little input from the people whose lives they affect. Therefore, forms of fair trade need to replace the treaties of free trade. Such fair trade arrangements mean trade as a form of exchange conducive to the fulfillment of civic, political, economic, social, and cultural rights as defined by the United Nations. Fair trade rejects placing states in the service of trade policy and instead subordinates trade law to human rights law (Chandler 2006). In particular, a fair trade agreement would include clauses to prohibit child labor, to establish labor standards, to protect the environment, to mandate gender equity in employment decisions and compensation, to promise food security, to abolish unfair subsidies, and to protect the provision of public goods and services. Most importantly, a fair trade agreement would not blanket all nations with the same terms. Instead, the agreement would support each nation's endeavors to protect and to promote human rights.

This paper draws attention to the need to open channels for civil society consultation and political participation in all stages of trade policy-making in order to promote and to protect human rights. An assumption of this paper is that civil society consultation and political participation would bring about such fair trade.

The paper is divided into four sections. The first historically contextualizes CAFTA. The second presents the opposition's arguments against CAFTA. The third expands focus from specific arguments against CAFTA into broader critiques of free trade regimes, where webs of asymmetrical power relations allow economically powerful countries to impose hypocritical and unjust terms on its so-called trade partners. Finally, in the fourth section, the paper presents a normative model—assuming that the enactment of civil and political rights will facilitate the fulfillment of economic, social, and cultural rights—for civil society consultation and politicization of trade agreements, as well as presenting implications for social work practice.

## THE EMERGENCE AND TERMS OF CAFTA

CAFTA was decades in the making, a step in a long process in what its preamble calls “hemispheric integration” (Dominican Republic—Central American—United States Free Trade Agreement [DR-CAFTA], 2004). CAFTA was designed to eliminate trade barriers among the countries of the Dominican Republic, El

Salvador, Honduras, Guatemala, Nicaragua, Costa Rica and the United States. Ostensibly, the agreement aims to open markets for agricultural products, manufactured goods, and textiles. Additionally, it promises to open markets for services, ambiguously defined to include sectors like telecommunications, tourism, and transport. It also putatively promises to promote workers' rights, to protect the environment, to safeguard investments, to strengthen customs operations, to acknowledge intellectual property rights, and to foster transparency.

The treaty stems from openness to trade both within and outside Central America, an openness which began in the 1990s and has endured to the present day. Costa Rica first entered bilateral trade agreements with countries like Mexico and the Dominican Republic in the 1990s. Other countries followed suit, establishing their own bilateral agreements and creating a "spaghetti bowl" of arrangements (Jarmillo, Lederman, Bussolo, Gould, and Mason 2006). These intricate channels revitalized the Central American Common Market, initially founded in 1961, and stimulated intraregional trade. The Caribbean Basin Initiative (CBI), founded in 1983 and expanded in 2000, gave Central American countries preferential access to U.S. markets. By 2000, the initiative had eliminated duties on 75% of Central American exports to the United States (Jarmillo et al. 2006). The United States, before CAFTA, initiated the Free Trade Area of the Americas talks, but they broke down in 2003 and CAFTA later emerged as another vehicle for hemispheric free trade.

The results from such free trade agreements are mixed. Central American countries have reduced trade barriers, increased trade volumes, and diversified trade, but have not seen the expected economic growth nor have they experienced a reduction of poverty. Such disappointing results from previous free trade arrangements undercut U.S. Trade Representative Robert Zoellick's assertion that "these small countries took a courageous decision to seek a free trade agreement with their giant neighbor to the North" (Office of the United States Trade Representative [USTR] 2005b, 1).

The United States, conversely, stands to gain more from CAFTA than Central American countries because these countries already have preferential access to U.S. markets through the CBI. Central American countries comprise the 10th largest market for the United States (USTR 2005a), a market over which the

United States has striven to maintain control. Additionally, the Bush administration pursued CAFTA for reasons beyond those related to economics, including security. The United States perceived threats to its interests in the region posed by Cuba's Fidel Castro and Venezuela's Hugo Chavez and the stipulations of CAFTA are such that only capitalist democracies can fulfill the document's stipulations. Thus, the treaty ensures the continuation of capitalist economies in a region that has drifted to the left politically. As one author noted, the treaty could accomplish what the war in Iraq could not (Barnes 2005).

According to Solís (2007c), when it came to CAFTA, the White House spread false rumors the day before voting that the United States would eliminate Costa Rica's preferential access to United States markets if it failed to ratify the treaty. Mark Langdale, the U.S. ambassador to Costa Rica, issued these threats to mobilize CAFTA proponents (Council on Hemispheric Affairs 2008). This fear mongering, according to Solís (2007c), was unfounded since CBI, the policy that guarantees preferential access, is a permanent agreement, and the Bush administration's empty threats outraged certain members of the U.S. Congress (Council on Hemispheric Affairs 2008).

While the U.S. threats may have been hollow, Oscar Arias, the President of Costa Rica, nonetheless acquiesced to the Bush administration's position. "We are forced," Arias said, "to belong to the global economy, as long as the (World Trade Organization's) Doha round of talks flounders, partly because of selfishness, lack of vision and hypocrisy among rich countries which maintain their protectionism and agricultural subsidies" (Zueras 2007, ¶18). In speeches, President Arias seems to acknowledge the asymmetry of trade agreements, which amount to unfair terms and a lack of voluntary commitment to these terms. Still, his administration touted CAFTA. Days before the referendum, a memo addressed to President Arias from Vice President Kevin Casas surfaced. It urged the use of "dirty tricks," such as threatening mayors who did not ratify CAFTA with a loss of funding (Council on Hemispheric Affairs, 2008) and the general public with the prospect of job losses (Casas and Sanchez 2007). Arias's political party, the *Partido Liberación Nacional* (PLN), employed these scare tactics.

## CAFTA CONTESTATION

In 2005, Ottón Solís based his campaign as the *Partido Acción Ciudadana* candidate for the Costa Rican presidency on an anti-CAFTA platform. While not an opponent of all trade, he argued strenuously against the CAFTA plan. After the referendum codified the agreement into law, he expressed this opinion through the progressive news outlet TomPaine.com:

We are proud that our health and environmental policies are, by far, the best in the region, that our democracy is founded on an extensive system of family farming, that our telecommunications services are lower priced and more efficient than those of our neighbors, that we abolished all military forces 60 years ago, and that our laws forbid the trade and production of weapons and their parts. All these sources of national pride are threatened by CAFTA. (2007c ¶2)

According to Solís (2007c), CAFTA erodes national sovereignty and social welfare, citing the intellectual property protections that would impede the provision of generic medicines at affordable prices. More broadly, he argues that CAFTA is for the benefit of the few, who at the time, employed strong-arm tactics and spent millions of private dollars in an attempt to bulldoze the measure through the legislative process without due process. Solís noted then: “CAFTA is very good for multinational corporations and *a very small elite of Central Americans*” (emphasis added, ¶6), an assertion which echoes Chimni’s (2006) observation that the elite of developing countries may act in concert with the elite of developed countries, thereby consenting to policies that have deleterious consequences for the general populace. Solís (2007a), therefore, opposed CAFTA on the grounds that the negotiations lacked fairness, transparency and sufficient parliamentary discussion. In an op-ed piece published in *La Nación*, a well-respected and widely-read Costa Rican newspaper, he pointed out the treaty had been drafted in another country, read by few, studied by even fewer and that proponents had touted the treaty before it had even been finalized, casting its ratification as a moral imperative. To these arguments he added his dismay that his rival for the presidency, Oscar Arias, refused to engage in debate about CAFTA during the election (2006a).

With respect to the role that the United States had played in Costa Rican politics, he wrote, "As voting day approached, the White House even went so far as to interfere in our internal affairs, weighing in with statements that echoed false threats that the 'yes' side had been spreading" (2007c ¶9). The United States was able to have such influence because, according to the U.S. Department of State (2008), the United States accounts for half of Costa Rica's exports, imports, and tourism, and two-thirds of its foreign investment. The *New York Times* quoted Solís as saying, "I never imagined CAFTA was going to be so one sided. The law of the jungle benefits the big beast. We are a very small beast" (McKinley 2005, ¶18). Or, as philosopher Allen Buchanan (2000) argues, because societies are neither economically self-sufficient nor distributionally autonomous, trade negotiations that "occur within the parameters of the global basic structure... will be shaped by whatever inequities characterize the global basic structure" (2000, 706-7).

In another piece appearing in *La Nación*, Solís (2007b) buttresses his political critique with empirical data drawn from an evaluation of the agreement among the United States, Canada, and Mexico, the North American Free Trade Agreement (NAFTA). He draws attention to the fact that after NAFTA's implementation, Mexico slipped 26 places in its ranking of worldwide competitiveness, its unemployment grew, its growth rate worsened, out-migration doubled, and the agricultural sector withered. Solís is particularly interested in the repercussions of NAFTA for two reasons: (1) CAFTA is modeled after NAFTA; and (2) since NAFTA was implemented in the 90s, it is possible to examine medium-term consequences of just such a free trade agreement. Solís's focus on the repercussions of NAFTA broadens focus from Costa Rica to the global free trade practices that endanger human rights.

## TRADE AND THE EROSION OF HUMAN RIGHTS

There is no questioning trade's consequences for economic rights, including the right to fair compensation, the right to an adequate standard of living, and the right to food security (Morrissey 2006). As a specific example, free trade can have particularly devastating consequences for agricultural producers and consumers in developing countries (Mayne and LeQuesne 1999). The potential

for such consequences was a rally call for CAFTA protestors in Costa Rica. The *New York Times* quoted Costa Rican small-scale farmer Emilio Rodríguez Pacheco as saying, “It’s impossible for us to be competitive with all the subsidies that the North Americans have. For the rice sector, it’s a tragedy” (McKinley 2005).

Following Solís, one can see that NAFTA has been devastating to family farmers in Mexico, where the agricultural sector has lost 1.3 million jobs since its ratification, and this loss offsets the gains made in the manufacturing sector (Audley, Papademetriou, Polaski, and Vaughan 2004). Though the entire decline in agricultural jobs cannot be attributed to NAFTA, the treaty is “the single most important factor” to explain the reduction (Audley et al. 2004, 20). With respect to wages, NAFTA has exacerbated both poverty and inequality: real wages are 40% lower today than they were in 1980 (Brown 2004) in spite of an increase in productivity. The percentage of Mexicans living in poverty is 31%, which is greater than the percentage of Mexicans living in poverty in the late 1970s (Audley et al. 2004). NAFTA has also contributed to wage inequality, reversing the trend that had begun prior to its implementation: the top 10% of households increased their share of the national income to the detriment of the bottom 90% (Audley et al. 2004) while wage differentials between high-skilled and low-skilled workers have increased (Villarreal and Cid 2008).

In developing countries, family farmers must slash their prices below the cost of production in order to compete because subsidies in the United States enable agribusinesses there to export grain at 60% of its production cost (Oxfam 2003a). Since United States’ exporters control 70% of the world market in corn, they play an enormous role in determining world prices (Oxfam 2003b). Small- and medium-scale farmers in Mexico must set their prices below costs in order to sell their crops. Food insecurity becomes pronounced as families farming in developing countries sell increasing shares of their crops, including those that were once used for family consumption (Audley et al. 2004). Even though Mexico is importing cheap corn, this savings is not passed on to consumers (Oxfam 2003b). Because of agribusiness vertical and horizontal integration—consolidating sales of a good across markets and integrating control of the production process from raw materials to finished products—corporations can maximize profits that do not spill over into reduced consumer prices.



While the trade imbalance in goods is obvious, it is more difficult to measure what Abrahamson (2007) calls a “democratic deficit,” which is the exclusion of citizens from determining the terms of the treaty. Throughout the negotiations of free trade treaties and in the negotiations of the World Trade Organization, there are often scant opportunities for civic and political participation. Costa Rican negotiations of CAFTA were shrouded in secrecy and excluded from political debate, two objections that Solís (2007a) has raised. While constituents find themselves unable to help define the terms of trade through civic and political participation, transnational corporations amass greater influence in trade negotiations (Karliner and Aparicio 2003).

The shift of power to transnational corporations erodes citizens' political rights: “A growing share of far-reaching decisions is made at a great distance from the affected people, without them having much of a say, either directly through international institutions or indirectly through their national government” (Demmers, Jilberto, and Hogenboom 2004, 29). In the context of free trade, states have exchanged the role of active policymaker for the role of passive administrator, which takes power away from citizens to define the political agenda on a local level (Evans 1999). Therefore, citizens of developing countries are forced to adapt to decrees from afar as national governments in developed countries use their power to protect and promote the interests of domestically-based transnational corporations seeking to expand abroad (Sethi 2003).

In addition to the democratic deficit, free trade agreements like CAFTA can erode states' sovereignty as supranational institutions are given the power to override a nation's laws (Gonzalez 2004). Solís (2007a) sardonically notes that while political conservatives in the United States claim free trade engenders democracy (Roberts and Markheim 2007), CAFTA could impose laws requiring Costa Rica to rewrite its constitution. According to Gonzalez, “CAFTA will prohibit states from determining and implementing economic and social policies which their branches of government believe are most suitable to their developmental needs, thus forcing them to adhere to a ‘one size fits all’ liberalizing recipe that does not account for the unique particularities of a given country” (2004 ¶16).

## ACHIEVING FAIR TRADE THROUGH CIVIL AND POLITICAL RIGHTS

Consulting citizens is a key component in the creation of fair trade agreements. As Sweeney (1998) describes, “The drive to forge the global market was led primarily from the suites... the drive to make this economy work for people... is being driven from the streets” (47). Citizen consultation confers legitimacy since meaningful civil society involvement can educate the public, ensure that decisions are made in the public interest, and augment public support for institutions and agreements (Williams 1999). To ensure citizen involvement actually informs trade agreements, it must be allowed to contribute to all stages of the policy-making process. Spalding (2007) notes that the mere insertion of labor or environmental clauses by policymakers to an existing agreement like CAFTA would not transform the treaty into a vehicle for promoting human rights. Rather, trade agreements must be crafted with citizen input around fundamental principles which could account for the precarious economic condition of small-scale farmers, protect a state’s autonomy to provide for social welfare, and prevent a blanket “one-size-fits-all” policy without respect for particular national needs.

This reliance on civil society participation obviously has its limitations, for civil society is not necessarily representative of all citizens’ interests (only those of the best organized). Civil society also brings with it a continuation of asymmetrical power arrangements. However, in spite of these limitations, including civil society in the formation of trade agreements holds four central strengths. First, civil society is unencumbered by responsibilities of government (Prevost 2005), yet still able to politicize trade agreements and subject them to public scrutiny—unlike when CAFTA was first negotiated and all participants were required during the first round to sign a pledge of secrecy (Ricker and Stansbury 2006). Second, it provides space for the equal opportunity for voice among all political parties. In contrast, during CAFTA negotiations, the Costa Rican dominant political party monopolized the discourse. Third, increased citizen participation might pressure national leaders to present their stances on trade agreements much as they do on any other domestic issue, such as taxation. When Solís ran for president he was unable to force the sitting president, Arias, to debate

CAFTA (Solís 2007b). Fourth, the decision of whether to ratify or to reject a treaty would be left in the hands of voters.

Although Costa Ricans did eventually vote for CAFTA, the process lacked the sustained input of civil society and left Costa Rican political elites and the United States wielding great influence over the outcome.

## IMPLICATIONS FOR PRACTICE

Social workers have a stake in advocating for fair free trade agreements. The National Association of Social Work's *Code of Ethics* preamble says clearly that social workers should meet "the basic human needs of *all* people" (emphasis added, Preamble ¶1). Thus, social workers' commitments extend beyond the borders of the United States. Second, contesting free trade agreements as they are currently written and enacted is an obligation according to the ethical principle of challenging social injustice. Social workers are bound to aid "vulnerable and oppressed individuals and groups of people," and their social change efforts should extend to issues of poverty and unemployment among others. Section 6 of the *Code of Ethics* outlines several specific commitments, such as the promotion of welfare at all systemic levels, the facilitation of informed social and political participation, and the shaping of just social and political institutions.

Social work professionals can contribute to robust civil society participation and the politicization of trade policy-making. Both theory and data indicate that the streams by which goods flow also facilitate the movement of people and that international migration is interwoven with the global economy (Massey, Arango, Hugo, Kouaouci, Pellegrino, and Taylor 1993). NAFTA has shown that migration has risen with accelerated economic integration (Oxfam 2003a), bringing some social workers into contact with families and individuals uprooted by this trade agreement.

Social workers can foster immigrants' capacities to continue to engage in social movements, such as the one that emerged in Costa Rica. According to the United States Human Rights Network, social movements should aim to protect human rights, and they should be led by the people most directly offended by violations (Neubeck 2006). Social workers' roles as defenders of human rights, advocates for social justice, and capacity builders recognize and fulfill both

of these tenets. Trade agreements are politically constructed, and, thus, they are amenable to influence by social movements. Social workers can advocate for fair trade by working together with affected people to strengthen their capacity to participate in trade policy-making in order to create fair trade agreements.

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