undermine the foundations of our fabric. A judiciary independent of a king or executive alone is a good thing, but independence of the will of the Nation is a travesty.'' And that will of the Nation, Mr. Speaker, is the Constitution uttered straight from the will of the people. Let us remember some of its words. How about the first words of the Constitution to bring us back, back home, back to a perspective of our law. Those words that say, ''We, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.''

The Constitution belongs to the people. It is ordained by the people. It does not belong to the Supreme Court for them to bend, rewrite, reinvent, or ignore it under any circumstances. Section 1 of the Constitution dictates that ''The judges, both of the Supreme Court and inferior courts, shall hold their offices during good behavior. I ask this question: Mr. Speaker, does citing foreign court opinions constitute good behavior? History will reveal whether it does or does not. If, however, I carried on like this in my courtroom in Texas, I would have been removed from the bench, and rightfully so. People from where I come from would not stand for a judge citing foreign courts to make decisions that affect Americans.

Perhaps the Justices, Mr. Speaker, should think long and hard about the meaning of good behavior. Serving this Nation is a privilege; it is not a right. We are all accountable to the Constitution that have taken an oath to defend the Constitution.

All of us in this body, this House of the people, this House of Representatives took an oath, an oath that people throughout the lands have taken, people from school boards, police officers, firefighters, city councils, mayors, big cities, and little cities, legislators, Members of Congress; all judges, State, local, and Federal, and the judges of the Supreme Court. We have all taken the same simple and solemn oath, to preserve, protect, and defend the Constitution of the United States. We owe it to the American people, we owe it to the Constitution, to follow that oath. That is our duty. That is our obligation, and we can do nothing but follow that oath.

CORRECTION TO THE CONGRESSIONAL RECORD OF THURSDAY, JUNE 9, 2005, AT PAGE H4345

PROBLEMS WITH CAFTA

The SPEAKER pro tempore (Mr. MACK). Under the Speaker's announced policy of January 4, 2005, the gentleman from Michigan (Mr. LEVIN) is recognized for 60 minutes as the designee of the minority leader.

Mr. LEVIN. The Dominican Republic-Central America Free Trade Agreement presents an important crossroads for trade policy. It involves issues broader than those, for example, relating to sugar or textiles; and indeed, as President Bush said recently, it involves issues beyond trade, including ramifications for the future path of democracy.

□ 1730

It is an important test for globalization. What has been unfolding in Latin America, including Central America, is that substantial portions of the citizenry are not benefiting from globalization. They have increasingly responded with votes at the ballot box or in the streets. Doing so, they have raised sharply an underlying issue and that is whether the terms of expanded trade need to be shaped to spread the benefits or simply to assume that trade expansion by itself will adequately work that out.

It is for these reasons, not more narrow interests, why the issue of core labor standards in CAFTA is important for Central America and for the United States of America. The way it is handled in CAFTA undermines the chance that the benefits of expanded trade will be broadly shared. The goal of globalization must be to expand markets and raise living standards, not promote a race to the bottom.

An essential part of this leveling up is the ability of workers in developing nations to have the freedom to join together, to have a real voice at work, so they can move up the economic ladder. This is not true in Central America where recent State Department and International Labor Organization reports confirm that the basic legal framework is not in place to protect the rights of workers and enforcement of these defective laws is woefully inadequate. Regretfully, CAFTA as negotiated preserves the status quo or worse, because it says to these countries ''enforce your own laws'' when it comes to internationally recognized labor standards.

The Latin American region possesses the worst income inequality in the world and four of the Central American nations rank among the top 10 in Latin America with the most serious imbalances. Poverty is rampant in these countries. The middle class is dramatically weak. As has been true in the experience of other nations, including our own, this will not change unless workers can climb up the ladder and help develop a vibrant middle class.

A huge percentage of workers in this region are not actively benefiting from globalization because the current laws in these nations do not adequately allow them to participate fully in the workplace. The suppression of workers in the workplace also inhibits the steps necessary to promote democracy in society at large. The core labor and environmental provision in CAFTA—that each country must merely enforce its own law—is a double standard. This standard is not used anywhere else in CAFTA, whether as to intellectual property, tariff levels, or subsidies.

''Enforce your own laws'' is a ticket to a race to the bottom. Such an approach is harmful all around: for the inability of workers to earn enough to enter the middle class so badly lacking in and needed by Central American countries; for American workers who resist competition based on suppression of workers in other countries; and for our companies and our workers who need middle classes in other countries to purchase the goods and services that we produce.

CAFTA is a step backwards also from present trade agreements. The Caribbean Basin Initiative standard states: in determining whether to designate any country a benefit country under CBI, the President shall take into account ''whether or not such country has taken or is taking steps to afford workers in that country, including any designated zone in that country, internationally recognized rights.''

The GSP, Generalized System of Preferences, standard is this: the President shall not designate a country, a GSP beneficiary country if ''such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in that country including any designated zone in that country.''

So CAFTA is a step backward from these standards. The provisions in CAFTA on worker rights as currently negotiated are substantially weaker than current U.S. law and would replace that current law. I will give you an example. In Guatemala over 900 Del Monte banana workers were fired in 1990 for protesting labor conditions. A GSP petition led USTR for the first time ever to self-initiate a worker rights review for Guatemala in October 2000. Guatemala subsequently passed labor reforms in April 2001, which included granting farm workers new rights to strike.

In preparation for CAFTA, however, Guatemala's constitutional courts struck down key parts of the 2001 labor reforms. In August of 2004, the Court rescinded the authority of the Ministry of Labor of that country to impose fines for labor rights violations, a key element of the 2001 agreement. Under CAFTA, the U.S. would have no recourse to challenge that development.

Now, let me go on, if I might, to a next point and that relates to the examples of Morocco and Chile and Singapore because those agreements are often used as examples as to why we should vote for CAFTA. I supported the agreements with Chile, with Morocco, and with Singapore. The situation in each of those countries was very different from Central American countries.

Chile has the international labor standards incorporated in their laws

and they enforce them. There is a vibrant labor movement and an active middle class. The same is essentially true in Singapore, active labor movements, workers have their right to associate if they want to organize, to form unions; and they have a tradition of a labor movement in Singapore.

Morocco, the question is asked, well, I voted for Morocco, why not CAFTA? And the answer is there are vast differences between the situations. Morocco took steps in the last years before the free trade agreement with them to truly, truly reorganize their labor laws. Also, Morocco has a tradition of a vibrant labor movement in the private sector as well as the public sector. So Central America is very different.

We voted, many of us on the Democratic side, for Morocco, Chile and Singapore; we believe in expanded trade as long as the terms of those of that trade agreement and of those trade agreements are shaped to spread the benefits across the population.

Let me say a word about Central American countries and the deficiencies in their laws, because much has been said of this and much was said today by our new USTR, a former colleague, Rob Portman. Look, USTR has tried to gloss over what the ILO says. They have tried to gloss over what is in the State Department reports themselves. But any objective look confirms that those reports say that the laws of those countries in terms of the basic international standards are defective. And this was spelled out in a letter that was sent by us on April 4 by the gentleman from New York (Mr. RANGEL), the gentleman from Maryland (Mr. CARDIN), the gentleman from California (Mr. BECERRA), and myself to the acting trade representative, Peter Allgeier.

Mr. Speaker, this letter will be placed in the RECORD at the end of my remarks.

What the reports show is exemplified in a fairly recent case, and I will refer to it briefly. It relates to port workers in El Salvador. In that case they tried to organize, they tried to be represented, they tried to bring about democratic rights within the workplace. Thirty-four of the workers were fired last December when they were trying to form a union. And not only did the law not require their reinstatement, but only severance pay, which is a cheap bargain for an employer who wants to violate rights.

But a month later, the labor ministry denied the labor union's registration petition since now there were only seven workers left. Others had been fired. El Salvador law requires at least 35 members to form a labor organization, a provision that itself has been criticized by the International Labor Organization.

I just ask everybody to read the letter that we sent to Mr. Allgeier and the attached analysis of laws from the ILO reports and State Department reports. President Bush has correctly talked about freedom and democracy. He has said that everywhere. But what this CAFTA does is to sanction the status quo where there is no democracy in the workplace.

President Bush last month urged a vote for CAFTA because it would bring ''stability and security'' to the region.

I think the opposite is true. If workers are suppressed, it is a step towards insecurity and towards instability. Labor market freedom is a source of security, undercutting insecurity. What is a threat, what is a real threat to undemocratic forces, those who do not believe in democracy, is democracy in the workplace.

The President likes to quote the writings of Natan Sharansky, who has been minister in Israel until recently. Natan Sharansky says that a test of democracy is whether somebody can arise in the town square and speak his or her mind without punishment. If you use that test to the workplace, most places in Central America, the answer is there is no democracy. If somebody raises their voice too often, they are fired.

Now, let me just say a word about another argument that is used and that is, well, the problem is enforcement and the United States is going to help the nations of Central America with their enforcement. We are going to provide monies so that there is a stronger department of labor, et cetera, et cetera.

Well, today, Rob Portman, our ambassador, outlined a number of proposals for more funding to help CAFTA countries in technical assistance to strengthen enforcement of labor laws. He said the problem is not labor laws; it is enforcement. The correct analysis is there is a deep problem in their laws and a severe problem with the enforcement of flawed laws. But when you look at what was urged today by Mr. Portman, and I do not question his good faith about it, but I do question the credibility of it because it is the record, not the rhetoric, that really matters. And the record of this administration in providing technical assistance for the strengthening of labor unions in other countries is miserable.

This year, I just give a few examples, this year President Bush proposed crippling cuts to the budget for the International Labor Affairs Bureau known as ILAB. He proposed cutting funding by 87 percent from $94 million to $12 million.

□ 1745

According to the President, the 2006 budget, ''returns the agency to its original mission of research, analysis and advocacy.'' Well, what that means is there is not any emphasis on technical assistance.

Also, the President's five budget requests in previous years proposed funding cuts for ILAB of more than 50 percent.

So I do not believe that the answer is simply more money going to agencies in other countries. I think the laws have to be in order. The regulations must not strangle efforts of people to assert their freedom in the labor market, but I do think better enforcement would be useful of good laws. The record of the administration in terms of technical assistance is terribly weak, in fact.

Now, let me discuss another issue that has come up when we discuss CAFTA. Increasingly, this administration has used our trade challenges from China as a reason to vote for CAFTA. This is happening more and more. It is not credible. It is at best boot strap. Look, we have to shape trade policy so that there can be effective competition with China, that is for sure. That relates to currency, and we just a short time ago had, I think, a rather ineffective meeting with the administration on the currency issue.

It also includes trade in apparel and textiles. We have seen a major influx of apparel from China with the end of the quotas. In order to have an effective trade policy, vis-a-vis, China, in the apparel and textile areas, we have to do the following.

Number one, we have to actively use remedies that were written into the agreement with China in its accession to the WTO. We worked hard to get those provisions into the WTO China accession agreement, and the administration has hesitated to use them effectively. They did not effectively anticipate this problem, and when the problem really sprouted, their response initially was very weak.

Second point regarding this: We do need to have and take steps to bring about a strong Caribbean apparel and textile structure, Caribbean including the United States. To do that, one of the steps that is necessary is to have compliance with international core labor standards. That would be a source of strength, not of weakness. It would be trying to compete and compete effectively, rather than trying to compete with China as to who can most suppress worker rights.

In that regard, I do think we ought to look at what is sometimes pointed to, and that is, the Clinton legacy because I have read some articles that have said that those of us who have raised this set of issues about globalization, who have raised this set of issues about shaping trade policy and have applied it to this critical step, vis-a-vis, CAFTA, that those of us who are doing that are taking a step backwards from where the Clinton administration was. The contrary is true. The contrary is really what this is all about.

For example, Jordan. Today, Ambassador Portman, and I am glad to call him ambassador now, he was a colleague, said that the Jordan agreement is not as strong as CAFTA when it comes to core labor standards. That simply is an incorrect analysis of Jordan. Jordan has a clear reference to the core standards: child labor, forced labor, anti-discrimination and the

right of workers to associate and to bargain collectively. It has references to those five core labor standards in the Jordan agreement, number one.

Number two, Jordan has a provision to make sure that Jordan cannot slip backwards, cannot move away from that standard. That is not true in CAFTA. Enforce your own laws, it can be present laws or revised laws that are even worse.

Thirdly, as to enforcement, it is not at all correct to say that the provisions in CAFTA, that those provisions are nearly as strong as was negotiated with Jordan. Essentially the Jordan FTA, the U.S.-Jordan FTA said that each country could take the necessary steps to enforce the obligations of the other, and it is true the Bush administration later entered a letter, a side letter, that put some brakes on the ability of the Bush administration to implement the Jordan agreement, but that is not what was negotiated.

What President Clinton did increasingly in his later years was to say to the world, I favor expanded trade, I believe in it, it has to be done in ways that shape so that there is a leveling up and not down. That is language that he used in his speeches. He referred to them at the University of Chicago speech, and that was the flavor of his speech at Davos. I was there when he gave the speech. He spent half of his time talking about the benefits of expanded trade. He also spent the second half saying if those benefits were going to be real and move globalization ahead, there needed to be, he said, a leveling up and not a leveling down.

When people say we cannot impose standards on other countries, and that was said I think it was yesterday or maybe earlier today by the chairman of our committee, I do not understand that. Trade agreements, like any other contract, involve imposition. We are going to have to change laws as a result of trade agreements. That was true under the Uruguay Round agreements. It is true of tariffs. We are going to have to change our laws regarding tariffs.

Now we are not talking about imposing American standards in CAFTA. What we are talking about is placing internationally recognized standards in the declaration of the ILO that every country involved here, Dominican Republic, Central American, U.S., has endorsed putting them into the agreement, in the body of the agreement enforceably with reasonable transition. That is important.

So let it be clear, the opposition to CAFTA, as negotiated, is not being led by those the administration likes to dismiss as in ''protectionists'' or ''isolationists.'' Those shoes do not fit. The opposition leadership involves those of us who have favored expanded trade and have helped to shape and pass trade agreements in the last decade.

For us, CAFTA is an important line in the sand, affecting the future effectiveness of globalization. If the U.S. does not seize the opportunity to shape the rule of trade and competition in CAFTA, it will have chosen simply to be on the receiving end of the consequences, both positive and negative of globalization.

I favor a CAFTA but not this agreement as it stands, and we can quickly fix this agreement by renegotiating CAFTA to include internationally recognized labor standards, with enforcement and a reasonable transition. In doing so, we would advance the interests of U.S. businesses and workers and expand the benefits of globalization beyond the status quo and any privileged minority in any of these countries.

We would take also an important step, and I want to emphasize this, an important step towards reestablishing a bipartisan foundation for trade. That bipartisan foundation has been eroded under this administration, and it is that bipartisan foundation that needs to be reestablished because it is so critical for tackling tough trade issues ahead, for example, in the Doha Round. We cannot tackle these tough issues of agriculture, various parts of agriculture, or of services, including financial services, we cannot tackle them, nontariff barriers, unless there is a solid, nonpartisan, bipartisan foundation. We cannot do it by trying to squeeze out a one vote majority.

Security, economic and political, is best achieved in the region of Central America by closing the dangerous gap between rich and poor, by development of a real middle class and a larger middle class and by expansion of freedom operating in the workplace and spreading throughout the society, it did, by the way, not only in our country, but in Poland and so many other places.

I want to close by emphasizing what is at stake, that this security, economic and political, is in the self-interest of our country, of our businesses and of our workers. We need to address this issue of core labor standards, not only for the benefit of the workers in the other countries, of the development of a so badly needed middle class in those countries, but also because our workers increasingly refuse to compete with countries where the workers are suppressed. That is eroding the support for international trade in this country, and we need to reaffirm its importance by reaffirming some basic principles. That is going to be good, as I said, for our country, for our businesses, and for our workers.

I am not sure of the timetable for CAFTA. What I am sure is as of today, it would not pass. There may be an effort to try to make it pass by all kinds of deals, which those of us who favor expanded trade would never agree to. It may be endeavored to pass through some kinds of deals unrelated to trade, offering this and that, unrelated again to trade. That would be a terrible mistake.

We have an opportunity here to reconfigure CAFTA in a way that would bring about strong bipartisan support and be a foundation for the development of stable relationships within Central America and the Dominican Republic and between them and ourselves.

Also, as I said, we would be able to reestablish the bipartisan foundation that once prevailed for international trade in this institution. Without it, CAFTA, in my judgment, should not and cannot pass, and there is likely trouble in tackling the other issues that need to be addressed boldly, honestly and effectively.

The material I referred to previously I will insert into the RECORD at this point.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, April 4, 2005.

Hon. PETER ALLGEIER,
Acting U.S. Trade Representative,
Washington, DC.

DEAR AMBASSADOR ALLGEIER: In recent weeks, advocates for the Central American Free Trade Agreement (CAFTA) have made assertions that the CAFTA countries' laws comply with basic, internationally-recognized rules that ensure common decency and fairness to working people. These advocates argue that the only outstanding issue concerning the rights of workers in the CAFTA countries is a lack of adequate enforcement of existing labor laws.

Unfortunately, CAFTA advocates' rhetoric is not supported by the facts. There are still no fewer than 20 areas in which the CAFTA countries' labor laws fail to comply with even the most basic international norms, as documented by the International Labor Organization (ILO), the U.S. Department of State and multiple non-governmental organizations.

More than a year ago, in November 2003, a number of us wrote to you outlining these problems in detail. We had hoped that doing so might lead to actions to remedy those problems, or at least to a constructive dialogue about them. However, the Members who signed that letter have yet to receive any response to the list of problems documented in that letter—either from your office or from the countries concerned. In fact, the labor laws in at least one of the CAFTA countries have been weakened in recent months.

In light of the fact that Congress may soon be considering the CAFTA, it is important to move beyond rhetoric to the facts. We urge you to provide documented information concerning any amendments CAFTA countries have made to their laws to address the shortcomings noted in the attached list. Those shortcomings cannot be overcome with better enforcement efforts. Even the best enforcement of inadequate laws—whether relating to intellectual property, services regulation or technical standards for manufactured products—cannot yield acceptable results.

We support the right CAFTA for the Central American countries and the Dominican Republic, just as we have strongly supported the Caribbean Basin Initiative (CBI) programs. These programs have done much to strengthen economic ties with our friends and neighbors in Central America and the Caribbean in ways that benefit both the United States and the region.

However, the CBI programs were built on the dual pillars of expanded economic opportunity and a strong framework for trade. In particular, the programs were expressly conditioned on the countries making progress in achieving basic labor standards. By contrast,

the CAFTA moves backward by not including even these minimum standards, and using instead a standard for each country of ''enforce your own laws.'' Ensuring that the CAFTA countries both adopt and effectively maintain in their laws the most basic standards of decency and fairness to working people is important to their workers, their societies, and to U.S. workers. It also is critical to ensuring strong and sustainable economic growth and promoting increased standards of living.

We welcome and support all efforts to improve the capacity of Central American countries to improve the enforcement of their labor laws. In fact, for the last four years, we have fought for better funding of such programs and against massive Administration budget cuts for labor technical assistance programs—many of these programs eroded-out or slashed by up to 90 percent in budgets submitted by the Administration. The Administration's track record gives us little confidence that the one-time grant of $20 million included in the FY05 Foreign Operations Appropriations Act for labor and environmental technical assistance in the CAFTA countries represents the kind of real and sustained commitment needed in these areas. Moreover, such efforts on enforcement are no substitute for getting it right on basic laws.

Sincerely,

BENJAMIN L. CARDIN,
Ranking Member, Subcommittee on Trade.
XAVIER BECERRA,
Member.
CHARLES B. RANGEL,
Ranking Member.
SANDER M. LEVIN,
Ranking Member, Subcommittee on Social Security.

U.S. STATE DEPARTMENT AND INTERNATIONAL LABOR ORGANIZATION REPORTS CONFIRM DEFICIENCIES IN CAFTA LABOR LAWS

The 2004 U.S. State Department Country Reports on Human Rights Practices, the October 2003 ILO Fundamental Principles and Rights at Work: A Labor Law Study (''the Report''), and other ILO reports released in recent years confirm the existence of at least 20 areas in which the labor laws in the CAFTA countries fail to comply with two of the most basic international norms of common decency and fairness to working people—the rights of association (ILO Convention 87) and to organize and bargain collectively (ILO Convention 98).

Each of these deficiencies, discussed in detail below, was identified in a letter sent in November 2003, from Reps. Rangel, Levin and Becerra to then U.S. Trade Representative Zoellick. Neither USTR nor the governments of the Central American countries have provided information responding to these inconsistencies.

COSTA RICA

Use of Solidarity Associations to Bypass Unions. Costa Rican law allows employers to establish ''solidarity associations'' and to bargain directly with such associations, even where a union has been established. The failure to explicitly prohibit employers from bypassing unions in favor of employer-based groups violates ILO Convention 98.

This deficiency was confirmed in the October 2003 ILO Report: ''[T]he report of the technical assistance mission . . . drew attention to the great imbalance in the private sector between the number of collective agreements and the number of direct pacts . . . the CEACR recalled that direct negotiation between employers and workers' representatives was envisaged 'only in the absence of trade union organizations.' ''

(2) Onerous Strike Requirements. Costa Rican law includes a number of onerous procedural requirements for a strike to be called. These requirements contravene ILO guidelines for regulation of strikes, and taken as a whole, make it nearly impossible for a strike to be called. For example, Costa Rica requires that 60% of all workers in a facility vote in favor of a strike in order for it to be legal. These requirements violate ILO Convention 87.

This deficiency was confirmed in the October 2003 ILO Report: ''The general requirements set out by the legislator [sic] for a strike to be legal . . . include the requirement that at least 60 per cent of the workers in the enterprise support strike action. The CEACR has stated that if a member State deems it appropriate to establish in its legislation provisions for the requirement of a vote by workers before a strike can be held, 'it should ensure that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level.' ''

(3) Inadequate Protection Against Anti-Union Discrimination. Costa Rica's laws do not provide for swift action against anti-union discrimination. For example, there is no accelerated judicial review for dismissal of union leaders.

This deficiency was confirmed in the October 2003 ILO Report: ''[A]s the CEACR has indicated, legislation needs to be amended 'to expedite judicial proceedings concerning anti-union discrimination and to ensure that the decisions thereby are implemented by effective means.' ''

EL SALVADOR

(1) Inadequate Protection Against Anti-Union Discrimination. El Salvador fails to provide adequate protection against anti-union discrimination. In particular, El Salvador fails to provide for reinstatement of workers fired because of anti-union discrimination, which violates ILO Convention 98. There also are widespread reports of blacklisting in export processing zones of workers who join unions. Salvadoran law does not prohibit blacklisting, as it bars only anti-union discrimination against employees, not job applicants.

The 2004 U.S. State Department Report on Human Rights Practices confirms this deficiency: ''The Labor Code does not require that employers reinstate illegally dismissed workers. . . . Workers and the ILO reported instances of employers using illegal pressure to discourage organizing, including the dismissal of labor activists and the circulation of lists of workers who would not be hired because they had belonged to Unions.''

(2) Restrictive Requirements for Formation of Industrial Unions. El Salvador has repeatedly been cited by the U.S. State Department and the ILO for using union registration requirements to impede the formation of unions. These formalities violate ILO Convention 87.

The 2004 U.S. State Department Report on Human Rights Practices confirms this deficiency: ''[I]n some cases supported by the ILO Committee on Freedom of Association . . . the Government impeded workers from exercising their right of association. . . . [T]he government and judges continued to use excessive formalities as a justification to deny applications for legal standing to unions and federations.''

A 1999 Report by the ILO Committee on Freedom of Association confirms this deficiency: The Committee observes that ''legislation imposes a series of excessive formalities for the recognition of a trade union and the acquisition of legal personality that are contrary to the principle of the free establishment of trade union organizations . . .''

GUATEMALA

(1) Inadequate Protection Against Anti-Union Discrimination. Guatemala's laws do not adequately deter anti-union discrimination. The failure to provide adequate protection from anti-union discrimination violates Convention 98.

This deficiency was confirmed in the 2004 U.S. State Department Report on Human Rights Practices: ''An ineffective legal system and inadequate penalties for violations hindered enforcement of the right to form unions and participate in trade union activities. . . .''

This deficiency was confirmed in the October 2003 ILO Report: ''[T]he CEACR hopes that . . . 'measures will soon be adopted to ensure rapid and effective compliance with judicial decisions ordering the reinstatement in their jobs of workers dismissed for trade union activities and that effective penalties will be established for failure to comply with such decisions.' ''

Note: In August 2004, the Constitutional Court of Guatemala issued a ruling rescinding the authority of the Ministry of Labor to impose fines for labor rights violations. Following this decision, it is not clear whether Guatemala's law permits any fines to be assessed for labor violations.

(2) Restrictive Requirements for Formation of Industrial Unions. Guatemala requires a majority of workers in an industry to vote in support of the formation of an industry-wide union for the union to be recognized. This requirement violates Convention 87.

This deficiency was confirmed in the 2004 U.S. State Department Report on Human Rights Practices: The high, industry-wide threshold creates ''a nearly insurmountable barrier to the formation of new industry-wide unions.''

(3) Onerous Requirements to Strike. Guatemalan law includes a number of provisions that interfere with the right to strike. The Guatemalan Labor Code mandates that unions obtain permission from a labor court to strike, even where workers have voted in favor of striking, In addition, the Labor Code requires a majority of a firm's workers to vote in favor of the strike. These laws violate Convention 87.

This deficiency was confirmed in the 2004 U.S. State Department Report on Human Rights Practices: Noting that ''procedural hurdles'' helped to make legal strikes rare, the Report states, ''The Labor Code requires approval by simple majority of a firm's workers to call a legal strike. The Labor Code requires that a labor court consider whether workers are conducting themselves peacefully and have exhausted available mediation before ruling on the legality of a strike.''

This deficiency was confirmed in the October 2003 ILO Report: ''[O]ne of the general requirements laid down in the legislation . . . is still under criticism by the CEACR: 'only the votes cast should be counted in calculating the majority and . . . the quorum should be set at a reasonable level.' ''

(4) Ambiguity in Certain Criminal Penalties. Guatemala's Penal Code provides for criminal penalties against anyone who disrupts the operation of enterprises that contribute to the economic development of the country. Whether and how these penalties apply to workers engaged in a lawful strike is unclear, and this ambiguity has deterred workers from exercising their right to strike. The CEACR has stated that application of these penalties to a worker who engaged in a lawful strike would violate ILO Conventions 87 and 98.

This deficiency was confirmed in the October 2003 ILO Report: ''The CEACR has drawn

the attention of the Government to the fact that certain provisions of the Penal Code are not compatible with ILO Conventions . . . noting that . . . sentences of imprisonment can be imposed as a punishment . . . for participation in a strike.''

(5) Restrictions on Union Leadership. Guatemala maintains a number of restrictions with respect to union leadership including: (1) restricting leadership positions to Guatemalan nationals; and (2) requiring that union leaders be currently employed in the occupation represented by the union. These restrictions violate Convention 87.

This deficiency was confirmed in the October 2003 ILO Report: ''Both the Constitution and the Labour Code prohibit foreign nationals from holding office in a trade union. . . . The Labour Code requires officials to be workers in the enterprise. . . . These restrictions have given rise to observations by the CEACR.''

HONDURAS

(1) Burdensome Requirements for Union Recognition. Honduran law requires more than 30 workers to form a trade union. This numerical requirement acts as a bar to the establishment of unions in small firms, and violates ILO Convention 87.

This deficiency was confirmed in the 2004 U.S. State Department Report on Human Rights Practices: ''The [ILO] has noted that various provisions in the labor law restrict freedom of association, including . . . the requirement of more than 30 workers to constitute a trade union. . . .''

This deficiency was confirmed in the October 2003 ILO Report: ''[T]he requirement to have more than 30 workers to constitute a trade union . . . has prompted the CEACR to comment that this number is 'not conducive to the formation of trade unions in small, and medium size enterprises.'''

(2) Limitations on the Number of Unions. Honduran law prohibits the formation of more than one trade union in a single enterprise. This restriction violates ILO Convention 87 on the right of workers to join or establish organizations of their own choosing, and fosters the creation of monopoly unions.

This deficiency was confirmed in the 2004 U.S. State Department Report on Human Rights Practices: ''The [ILO] has noted that various provisions in the labor law restrict freedom of association, including the prohibition of more than 1 trade union in a single enterprise. . . .''

This deficiency was confirmed in the October 2003 ILO Report: ''Such a provision, in the view of the CEACR, is contrary to Article 2 of Convention No. 87, since the law should not institutionalize a de facto monopoly. . . .''

(3) Restrictions on Union Leadership. Honduras requires that union leaders be Honduran nationals, and be employed in the occupation that the union represents. These restrictions violate ILO Convention 87.

This deficiency was confirmed in the 2004 U.S. State Department Report on Human Rights Practices: ''The [ILO) has noted that various provisions in the labor law restrict freedom of association, including . . . the prohibition on foreign nationals holding union office, the requirement that union officials must be employed in the economic activity of the business the union represents. . . .''

This deficiency was confirmed in the October 2003 ILO Report: ''The Labour Code prohibits foreign nationals from holding trade union offices and requires officials to be engaged in the activity, profession or trade characteristic of the trade union. . . . The CEACR has objected to these provisions, which it deems incompatible with Article 3 of Convention No. 87. . . .''

(4) Inadequate Protection Against Anti-Union Discrimination. The ILO CEACR has faulted Honduras for a number of years for not providing adequate sanctions for anti-union discrimination. For example, under the law, only a very small fine equivalent to approximately US$12–$600 can be assessed against employers for interfering with the right of association. This Honduran law violates ILO Convention 98.

This deficiency was confirmed by a 2004 Report of the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR): ''The penalties envisaged . . . against persons impairing the right to freedom of association (from 200 to 2,000 lempiras, with 200 lempiras being equivalent to around $12) had been deemed inadequate by one worker's confederation. . . . The Committee once again hopes that [legislation will be prepared] providing for sufficiently effective and dissuasive sanctions against all acts of anti-union discrimination.''

(5) Few Protections Against Employer Interference in Union Activities. Honduras prohibits employers or employees with ties to management from joining a union; it does not, however, prohibit employers from interfering in union activities through financial or other means. The failure to preclude employer involvement violates ILO Convention 98 on the right to organize and bargain collectively.

This deficiency was confirmed in a 2004 Report of the ILO CEACR: ''[T]he Convention provides for broader protection for workers' . . . organizations against any acts of interference . . . in particular, acts which are designed to promote the establishment of workers' organizations under the domination of employers or employers' organizations, or to support workers' organizations by financial or other means, with the object of placing such organizations under the control of employers or employers' organizations. In this respect, the Committee once again hopes that [labor law reform will include provisions] designed to . . . afford full and adequate protection against any acts of interference, as well as sufficiently effective and dissuasive sanctions against such acts.''

(6) Restrictions on Federations. Honduras prohibits federations from calling strikes. The CEACR has criticized this prohibition, which contravenes the right to organize.

This deficiency was confirmed in the October 2003 ILO Report: ''Federations and confederations do not have a recognized right to strike . . . which has prompted the CEACR to recall that such provisions are contrary to Articles 3, 5 and 6 of Convention No. 87 . . .''

(7) Onerous Strike Requirements. Honduras requires that two-thirds of union members must support a strike for it to be legal. This requirement violates ILO Convention 87.

This deficiency was confirmed in the October 2003 ILO Report: ''[T]he CEACR has recalled that restrictions on the right to strike should not be such as to make it impossible to call a strike in practice, and that a simple majority of voters calculated on the basis of the workers present at the assembly should be sufficient to be able to call a strike.''

NICARAGUA

(1) Inadequate Protection Against Anti-Union Discrimination. Nicaragua's laws permit employers to fire employees who are attempting to organize a union as long as they provide double the normal severance pay. This allowance violates ILO Convention 98.

This deficiency was confirmed in the October 2003 ILO Report: The Annex to the Report states that the Labor Code provides that ''if the employer does not carry out reinstatement, he/she shall pay double the compensation according to the length of service.''

(2) Use of Solidarity Associations to Bypass Unions. Nicaragua allows employers to create ''solidarity associations'' but does not specify how those associations relate to unions. The failure to include protections against employers using solidarity associations to interfere with union activities violates ILO Convention 98.

This deficiency was confirmed in the 2004 U.S. State Department Report on Human Rights Practices: ''The Labor Code recognizes cooperatives into which many transportation and agricultural workers are organized. Representatives of most organized labor groups criticized these cooperatives and assert that they do not permit strikes, have inadequate grievance procedures, are meant to displace genuine, independent trade unions and are dominated by employers.''

(3) Procedural Impediments to Calling a Strike. Nicaragua maintains a number of restrictive procedural requirements for calling strikes. (According to the 2002 U.S. State Department Human Rights Report, the Nicaraguan Labor Ministry asserts that it would take approximately 6 months for a union to go through the entire process to be permitted to have a legal strike.) Since all legal protections may be withdrawn in the case of an illegal strike, the practical outcome is that workers who strike often lose their jobs, thus undermining the right to strike protected by Convention 87.

This deficiency was confirmed in the 2004 U.S. State Department Report on Human Rights Practices: ''Observers contend that the [process for calling a strike] is inappropriately lengthy and so complex that there have been few legal strikes since the 1996 Labor Code came into effect . . .''

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. KILPATRICK of Michigan (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. LARSEN of Washington (at the request of Ms. PELOSI) for today on account of business in the district.

Ms. LINDA T. SÁNCHEZ of California (at the request of Ms. PELOSI) for today on account of official business in the district.

Mr. SESSIONS (at the request of Mr. DELAY) for the week of June 13 on account of taking his sons to scout camp.

Mr. TOWNS (at the request of Ms. PELOSI) for today.

Ms. WATERS (at the request of Ms. PELOSI) for today on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.