

House Foreign Affairs Committee
Tom Lantos Human Rights Commission

Hearing
on
Human Rights Challenges in Mexico

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STATEMENT SUBMITTED FOR THE RECORD

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The Solidarity Center extends its appreciation to the Tom Lantos Human Rights Human Rights Commission for holding a timely hearing on the human rights situation in Mexico. As hearing testimony has underscored, Mexico continues to confront many grave human rights challenges.

For a century, the major institutions in Mexico have colluded to deny the rights to freedom of association and collective bargaining to workers in the country. During seven decades of one-party rule, the state and private enterprise relied on co-opted and corrupt unions to maintain political power, ensure “labor peace” and protect profits. As the Mexican economy transformed in the 1980s and 1990s toward a neoliberal export model and its political system broke free of one-party rule in 2000, these structural changes did not fundamentally alter the country’s labor rights situation. For the first two decades of the 21st century, most Mexican government-supported unions did little to improve the material or working conditions of their members. In fact, unions’ compliance with employers’ demands and a legal system that allowed the government broad discretion in controlling organized labor contributed to stagnant wages and widening inequality. These low wages, combined with an economy open to foreign investment like never before, attracted corporations from the United States, Europe and Asia seeking cheap labor to manufacture export goods largely for the U.S. market. The “success” of this economic model relied on wages that were depressed through restrictions on the exercise of worker rights.

The Solidarity Center works to empower people around the world to earn safe and dignified livelihoods, exercise their fundamental labor rights and have a voice in shaping work conditions and the public policies that impact their lives. In Mexico, the Solidarity Center firmly supports our partners’ belief that worker rights, including the rights to freedom of association and collective bargaining, the elimination of forced and child labor, and the elimination of discrimination in employment are fundamental to a free and fair society. Labor rights are not only inextricable from the broader framework of human rights, they are often a prerequisite to the full exercise of many rights outside of the workplace. A full examination of a country’s human rights situation must account for the country’s respect and enforcement of worker rights.

Structural Reform Opens Possibilities for Increased Rights

In the past five years, three important events have laid the groundwork for potential improvements in worker rights in the country: the [2017 constitutional reforms](#), the [2019 reforms to the Federal Labor Law](#), and the [United States-Mexico-Canada Agreement](#) (USMCA), which entered into force in 2020.

Through the constitutional reforms enacted in 2017 and the subsequent enabling legislation that modified the Federal Labor Law in 2019, Mexico made important institutional changes to enforce worker rights enshrined in the Mexican Constitution but whose exercise had been suppressed by a labor relations system designed to repress workers' voice for political control. These domestic reforms had three principal objectives: to ensure that workers could effectively participate in choosing their representation through universal, free and secret elections for union leadership; to ensure workers could have meaningful agency regarding their working conditions through a vote on collective bargaining contracts; and to eliminate the notoriously corrupt labor boards responsible for labor law enforcement, replacing them with more transparent institutions in the judicial branch, thus providing greater insulation from political interference.

In addition to these domestic reforms, an equally important contribution to the current labor rights framework in Mexico has been the United States-Mexico-Canada Agreement, in particular the monitoring and enforcement mechanisms found in the agreement's Labor Chapter 23 and Dispute Settlement Chapter 31. [The Rapid Response Labor Mechanism](#) created by the USMCA allows the United States to initiate enforcement actions against employers in Mexico suspected of violating labor rights.

Through constitutional amendments, federal legislation and international agreements, workers in Mexico now have the right to democratically elect their union representatives, to vote on their employment contracts and to have meaningful avenues for redress of grievances. These are significant advances in a country where, for over a century, government, employers and corrupt union leaders have colluded to hold down wages and deny improvements in working conditions. Despite these legislative improvements, workers in Mexico are far from enjoying their full rights.

Progress and Challenges in the Implementation of Mexico's Labor Reforms

The 2019 reform of the Federal Labor Law stipulated an ambitious timeline to implement a profound transformation of the labor system in the country, setting a goal to complete the reforms in four years, by May 2023. Even with this expedited timeline, implementation of key aspects of the reform has yet to be completed and risks missing deadlines established by the law.

The 2019 reforms called for Mexican workers to legitimate their collective bargaining agreements (CBAs) through democratic vote by May 2023, at which point any agreement not legitimated would be invalidated. Current data shows that of the estimated 559,969¹ collective bargaining agreements in force in the country, votes have been held in 9,866 workplaces on 4,794 CBAs, with 4,297 being approved, 454 remaining pending verification and 43 being rejected. At this rate, it is likely that thousands of collective bargaining agreements will be invalidated in less than a year. While many of these are "employer protection contracts" that do little to advance worker interests, the slow progress toward votes on these

¹ Interagency Labor Committee for Monitoring and Enforcement, July 18, 2022

contracts has the potential to create great uncertainty for workers whose contracts will be nullified. Moreover, the failure to ensure timely legitimization votes represents an effective denial of the workers' right to democratically participate in the negotiation of their working conditions.

A second major undertaking to carry out the 2019 reforms has been the implementation of a new labor model at the state level, including Mexico City. As a major component of this process, states are to install institutions for monitoring and enforcing labor rights, including local and federal labor courts, as well as local offices of the Federal Center for Conciliation and Labor Registry. Due to budgetary and administrative constraints, the reforms were designed to be implemented in three phases, with roughly one-third of Mexico's states executing the institutional changes in 2020, another third in 2021 and the final third in 2022. It appears unlikely that the timeline will be met for completing this work. Only in May of this year were the first disbursements made from the federal government to states to begin the third phase, and these were made to only two of the 11 entities scheduled to implement the reforms this year, a group that includes Mexico City, the largest population center in the country. The delays in implementation mean that, in practice, workers in much of the country do not have effective redress in cases of labor rights violations.

Application of the USMCA's Rapid Response Mechanism

As Mexico has moved hesitantly into implementing its domestic reforms, its newly created obligations under the USMCA have created another avenue for protecting worker rights in the country. In the two years since the USMCA has taken force, [its Rapid Response Labor Mechanism has been activated four times](#). In May 2021, the United States initiated the mechanism in response to allegations of rights violations surrounding the legitimization vote of a collective bargaining agreement at a General Motors plant in Silao, Guanajuato. The following month, the mechanism was again invoked to investigate complaints that freedom of association rights were violated at the Tridonex auto parts plant in Matamoros, Tamaulipas. In May 2022, the United States again invoked the mechanism in response to allegations of freedom of association and collective bargaining rights violations at the Panasonic Automotive Systems facility in Reynosa, Tamaulipas. The most recent case, initiated in June of this year, seeks to address violations reported at the Teksid Hierro iron foundry in Frontera, Coahuila.

Thus far, in its limited application, the Rapid Response Labor Mechanism has delivered concrete results in the protection of worker rights. In the case of GM Silao, workers at the plant were able to reject the employer protection contract, oust the union responsible for the contract and join a new union, SINTTIA, which subsequently negotiated a collective bargaining agreement that brought real improvements to their wages and working conditions. Following the complaint against Tridonex, the company agreed to severance with back pay for more than 150 dismissed workers and vowed to protect workers' right to freedom of association. As a result, an independent, democratic union ousted the corrupt protection union that had previously represented workers at the plant. The Panasonic and Teksid cases are still open, but it is hoped that they will produce equally tangible results.

Solidarity Center partners in Mexico see the resolution of these cases as promising and encouraging signs that the Rapid Response Labor Mechanism can help enforce the rights of Mexican workers. As a novel approach to enforcing labor rights through multilateral trade agreements, the mechanism has supported

the strengthening of democratic unions and held companies responsible for rights violations, including illegal dismissals. The initiation of the mechanism has served as a warning to employers that their actions are being scrutinized, offering some protections to workers engaged in the defense of their rights.

Nevertheless, the Rapid Response Labor Mechanism is not without limitations. The clearest example has been its minimal application relative to the magnitude of labor rights violations in Mexico. Part of this limited application has been intentional, as the USMCA specifies priority sectors for its application, which currently include only the manufacturing, service and mining sectors. As currently defined, these priority sectors exclude many Mexican workers in sectors where labor violations are commonplace, such as in agriculture, as well as workers engaged in precarious forms of work, such as contract workers and workers in the informal sector. For these reasons, this mechanism must be used in conjunction with other institutions and processes for protecting worker rights.

Threats and Retaliation Against Workers and Independent Unions

Solidarity Center's partners in Mexico work on the front line in defense of workers' rights to organize and advocate for their interests. As a consequence of their work, they have faced threats of violence and acts of retaliation that have jeopardized their livelihoods and their well-being. These are some examples of the conditions faced by workers and their independent organizations in Mexico:

- In the case of GM Silao, Alejandra Morales, SINTTIA's Secretary General and other members of the executive board committee received death threats and their family members were intimidated. As workers organized at the plant, at least [18 workers associated with organizing activities were dismissed](#) with specious justifications. Members of the corrupt protection union threatened and harassed workers before the vote, both at home and in the workplace. Workers were told that should a new union take charge in the plant workers [would lose benefits or their jobs](#), or even that the [plant would close](#). Within a week of the crucial vote at the plant, [union leaders received threats](#), including credible death threats, in retaliation for their union work.
- In the case of Teksid Hierro de México (Stellantis Group), workers faced an extremely repressive and undemocratic work environment including forced labor, sexual harassment, physical attacks, threats and intimidation. In addition, Teksid Hierro de México fired more than 500 workers who supported the Miners Union in reprisal for their union activity. Recently, one of the leaders of the movement received death threats and intimidation against his family.
- In another disturbing instance of intimidation and retaliation related to both the Tridonex and Panasonic cases, Susana Prieto Terrazas, a prominent labor lawyer working in support of democratic unions in both facilities, was jailed for three weeks in June 2020. Shortly after her release in the state of Tamaulipas she was [threatened with arrest again in the neighboring state of Chihuahua](#). The harassment Prieto faced demonstrates that labor activists must contend with retaliation by both employers as well as state actors who are willing to criminalize work that advances freedom of association and collective bargaining rights.

Additional Concerns

In addition to the delayed implementation of labor reforms in Mexico, limitations of the USMCA's Rapid Response Labor Mechanism of the USMCA and serious rights violations experienced by Solidarity Center partners, our partners have highlighted other areas of concern. For example, new and old corrupt unions are seeking to utilize the Rapid Response Labor Mechanism for purposes other than to hold employers accountable for labor rights violations. It appears that amid their declining power and relevance, members of the traditional, corrupt, employer-protecting union organizations see the Rapid Response Labor Mechanism as a means to settle disputes among themselves and cling to power. These disputes provide no opportunity to advance workers' real interests, and the use of the mechanism for their resolution will provide no benefit to Mexican workers. In fact, this perversion of the USMCA would be detrimental to workers as it would siphon valuable resources from addressing the real needs of working Mexicans.

Recommendations

In consideration of the current state of labor rights in Mexico, the opportunities presented by domestic reforms and newly created international labor rights obligations, as well as the challenges presented by the overall disturbing human rights situation more broadly in Mexico, the Solidarity Center makes the following recommendations to support worker rights in the country:

1. Congress should continue to provide adequate funds for the implementation of the United States-Mexico-Canada Agreement and its Rapid Response Labor Mechanism, with a focus on strengthening workers' capacity to exercise their labor right, including through the Rapid Response Labor Mechanism.
2. The Office of the United States Trade Representative should consider further instances of self-initiation of the Rapid Response Labor Mechanism as it did in the case of General Motors Silao, to expand upon the efforts of civil society in protecting worker rights in Mexico.
3. The United States should continue its productive dialogue with counterparts in Mexico to support compliance with the United States-Mexico-Canada Agreement and the timely, complete and effective implementation of the labor reform process in Mexico.
4. The United States should include enforcement mechanisms like the Rapid Response Labor Mechanism in future trade agreements and should use the experience of its utilization in Mexico to strengthen and improve these mechanisms to guarantee worker rights.
5. The United States should consider expanding the priority sectors of the Rapid Response Labor Mechanism to support the rights of a greater number of Mexican workers.
6. Congress should encourage the U.S. Government to offer technical assistance to Mexico to prevent surveillance, harassment, threats and violence against workers organizing and advocating for their labor rights.
7. U.S. Government initiatives that promote U.S. investment in Mexico, such as the \$1.3 billion committed by the U.S. Development Finance Corporation (FY 2006 - 2021), should ensure that such investment does not violate labor rights, or benefit actors engaging in corrupt business or government practices with respect to labor relations.