

<http://www.ilo.org/public/english/standards/norm/whatare/fundam/index.htm>, particularly the right of association (Convention 87) and the right to organize and bargain collectively (Convention 98).

Although DR-CAFTA pays rhetorical homage to these standards, in practice it throws them overboard. The agreement calls for each country to enforce its existing labor codes, no matter how inadequate or distant from the ILO standards. The agreement recognizes "the right of each Party to establish its own domestic labor standards, and to adopt or modify accordingly its labor laws." It then goes on to state that "each Party shall strive to ensure that its laws provide for labor standards consistent with the internationally recognized labor rights. . . . and shall strive to improve those standards in that light." See United States Trade Representative, "The Dominican Republic-Central America Free Trade Agreement," August 5, 2004, [http://www.ustr.gov/Trade\\_Agreements/Bilateral/DR-CAFTA/DRCAFTA\\_Final\\_Texts/Section\\_Index.html](http://www.ustr.gov/Trade_Agreements/Bilateral/DR-CAFTA/DRCAFTA_Final_Texts/Section_Index.html). "Strive to ensure" and "strive to improve"? This is the kind of language many would like to see on April 15 when they have to pay their taxes since it is virtually unenforceable. A standard based on effort is hardly a serious standard. Instead of "striving to ensure" international standards are met, the agreement could commit to upholding them and provide clear penalties if they are not upheld.

The domestic laws often read as if they are designed to thwart the formation of unions, and slipshod enforcement hardly improves the situation. Companies wanting to avoid unions can do just about anything; workers seeking to join unions face threats and intimidation. Protection against anti-union bias is akin to snow in San Francisco; it happens but not frequently. "In practice, labor laws on the books in Central America are not sufficient to deter employers from violations," an International Labor Rights Fund (ILRF) study found. See International Labor Rights Fund, "An Examination of Six Basic Labor Rights—Executive Summary of Reports on Honduras, Costa Rica, Nicaragua, El Salvador and Guatemala," based on a study by Asociación Servicios de Promoción Laboral (ASEPROLA), April 5, 2005, <http://www.laborrights.org/>. Byzantine regulations tend to tie unions into knots, laying out registration procedures that are more maze than procedure. In Honduras, for example, the ILRF found "obstacles and delays in union registration constitute a violation of ILO Convention 87 on the right to associate." Ibid. Weak as labor rights are, the track record hardly inspires confidence that they won't be ratcheted downwards in response to globalization.

Enforcement is squeezed by impunity and corruption, ineptitude and fear. In Guatemala, the U.S. State Department concluded in its 2005 human rights report that "Workers had little confidence that the responsible executive and judicial institutions would effectively protect or defend their rights if violated." The report stated that "the weakness of labor inspectors, the failures of the judicial system, poverty, the legacy of violent repression of labor activists during the internal conflict, the climate of impunity, and the long-standing hostility between the business establishment and independent and self-governing labor associations all constrained the exercise of worker rights." See U.S. State Department, Bureau of Democracy, Human Rights, and Labor, "Guatemala Country Report on Human Rights Practices 2004," February 29, 2005, <http://www.state.gov/g/drl/rls/hrrpt/2004/41762.htm>.

#### THE PROMOTION OF REFORM

There is little dispute that labor conditions are bad today; the real question is will

DR-CAFTA make them better? In fact, it will make them worse. What makes the DR-CAFTA approach particularly problematic is that it replaces the modest existing protections for labor rights embedded in two unilateral trade preference programs: the Generalized System of Preferences (GSP) and the Caribbean Basin Initiative (CBI). Much of the halting, modest reform that has taken place in the region over the last 15 years stems from the pressure brought through these programs. For example, El Salvador was put on GSP review for abusing worker rights in 1992 and labor law reform followed within two years. See AFL-CIO, "The Real Record on Workers' Rights in Central America," (Washington D.C.: AFL-CIO, April 2005), <http://www.aflcio.org/issuespolitics/global/economy/upload/CAFTABook.pdf>.

What impetus is supposed to change destructive practices this deeply rooted? The core problem is one of political will, not lack of technical resources. The most powerful incentive for change is conditioning U.S. ratification on domestic labor law reform. Unfortunately, that horse has already left the barn. Some proponents argue expanded trade will result in more democratic rights. Bureaucratic trade does not seem to have done much in Mexico—especially in the export sector—in the first decade of NAFTA. Cross border trade between the U.S. and Mexico has tripled yet the number of independent unions remains in single digits.

Realistically, powerful elites retain a strong hold on the DR-CAFTA economies. If expanded trade simply translates to expanded income for these elites, a small number of wealthy families may become wealthier and happier, but little will be passed along to the majority of the people of these countries. The growth of the middle class will be thwarted and, ironically, the potential market for U.S. goods dampened. By the same token, the pressure will correspondingly increase on the wages and working conditions for U.S. workers. The goal should be to harmonize standards upwards not the other way around.

#### SMART TRADE

The entire ratification process has caused severe strains and protests in civil society throughout Central America. Reflecting the gap between the ratification process for DRCAFTA and popular sentiment is the fact that legislatures often had to pass the agreement in the dead of night. The Honduran Congress ratified CAFTA in an early morning surprise vote specifically because protests were expected. The Guatemala Congress approved CAFTA in emergency session and under exceptional circumstances also because of anticipated protests. It passed by a lopsided vote of 126-12 on March 10; a Gallup poll carried out two weeks later (March 14-23) found that 65 percent of those polled felt that the agreement would harm the country. See Matthew Kennis, "Despite Ratification Anti-CAFTA protests Continue in Guatemala," IRC Americas Program, (Silver City, NM: International Relations Center, April 13, 2005), <http://www.americaspolicy.org/pdf/commentary/0504guatcafta.pdf>.

When it came to the issue of labor rights, tough negotiating dissolved into acceptance of the status quo. The danger, according to former President of Costa Rica Rodrigo Carazo Odio, is that "corporations take advantage of cheap labor, operating in enclaves with limited links to the national economy, trapping the region in a spiral of low salaries, low aggregate value and lack of compliance with basic labor standards, such as the freedom of association and the right to collective negotiation." See Rodrigo Carazo Odio, letter to the Members of the United States Congress Washington, DC, May 27, 2004.

We need to reframe the debate on the issues of labor rights and development. It is not a question of free trade versus protectionism, but rather "smart trade" versus "polarizing trade." Smart trade recognizes rights, spurs economic growth with equity, and promotes democracy; polarizing trade might spur trade in the short run but the benefits go to the winners' circle while the number of losers grows far larger. Democracy itself could be a casualty.

Smart trade requires four provisions:

1. Upward harmonization of domestic labor law to match the core ILO conventions as the goal of a three-year phase-in period. The granting of trade and investment benefits would follow agreed upon reform in a country's labor law. See Carol Pier, "The Right Way to Trade," Washington Post, August 1, 2003.

2. The ILO five core labor rights embedded in the core agreement, subject to strong enforcement provisions and penalties.

3. A development fund targeted for infrastructure and education. This fund would reinforce competitiveness in the six countries and place them on the "high road."

4. Expanded adjustment assistance for U.S. workers negatively impacted by trade. This assistance should also be proactive in industries threatened by trade.

No trade agreement can solve all the problems of development and globalization, but it should point in the right direction. A trade agreement that fosters prosperity and promotes democracy is possible and essential for the region and for the United States. Smart trade lays the basis for growing incomes and markets in Central America and the Dominican Republic and expanded U.S. exports and jobs. It begins to define a better model for integrating into the global economy. Unfortunately, that model is not this DRCAFTA.

#### PROPERTY RIGHTS AND EMINENT DOMAIN

#### HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 2005

Mr. STEARNS. Mr. Speaker, last week, on this Floor I saluted the Supreme Court for a ruling that made citizens more free. Also, yesterday we passed H. Res. 312, Recognizing National Homeownership.

However, the Supreme Court I lauded was not ours, but the Canadian Supreme Court, for freeing the sale of health insurance. And in fact, USA homeownership may not be so liberating. Last Thursday, our Supreme Court backed that local governments can co-opt private property, and give it to another private entity, for economic development. This is under the power of eminent domain, and is an expansive setback to property rights advocates and all homedwellers.

The Fifth Amendment to our Constitution allows the government to take private property with "just compensation". Historically, it's been interpreted only for "public use": a highway, military base or other such infrastructure. Increasingly, and confirmed by *Kelo v. New London*, the Federal courts have said that private property could be taken for "public benefit," including tax revenues and job creation. Revitalization for the neighborhood trumps individual "homeownership".

Former bustling, now depressed New London, CT seeks to develop a private, commercial enterprise. They must compensate, but

two homeowners don't want to budge. Susette Kelo has extensively remodeled her waterfront-view home. Wilhelmina Dery was born in her house in 1918 and has lived there her entire life.

You ask, why worry, how often? According to Institute for Justice, the public interest law firm litigating for the homeowners, nationwide, more than 10,000 properties were threatened or condemned in recent years.

Of the majority (Justices Stevens, Souter, Ginsburg, Breyer, and Kennedy), Justice Kennedy provided the dimmest hope, that states are free to pass additional protections. Fortunately for citizens of Connecticut,

Governor M. Jodi Rell is urging careful review, and possibly legislative solution in Hartford.

Florida is one of eight states that forbids the use of eminent domain when the purpose is not to eliminate blight. This does not reassure. A dismayed constituent cried that this decision has turned us into serfs who no longer own the land, we just inhabit it at the whim of the government. The Supreme Court's justices are appointed by our elected President and confirmed by our U.S. Senators, and affirm to uphold the U.S. Constitution, under which we think we are living. The Gainesville Sun polled "How do you feel about the Supreme Court ruling giving local governments power to seize private property to generate tax revenue?" Huge mistake, said 363 to 31. Similarly, the Marion Pulse of the Ocala Star Banner polled that 98.2 percent of its readers disavowed the ruling.

Justice O'Connor (joined by Rehnquist, Scalia, and Thomas) impassioned: "The specter of condemnation hangs over all property. Nothing is to prevent the state from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory. . . . Any property may now be taken for the benefit of another private party, but the fallout from this decision will not be random. The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms. . . . As for the victims, the government now has license to transfer property from those with fewer resources to those with more. The Founders cannot have intended this perverse result."

What did the Founders say? Thomas Jefferson wrote that "Charged with the care of the general interest of the Nation, and among these with the preservation of their lands from intrusion, I exercised, on their behalf, a right given by nature to all men, individual or associated, that of rescuing their own property wrongfully taken" (to W. C. C. Claiborne, 1810).

Yes, the less-connected and the feeble have more to fear. Justice Thomas reminded that urban renewal has historically resulted in displacement of minorities, the elderly and the poor. This is why civil rights-promoting groups such as the NAACP and AARP filed friendly briefs. Non-profits and religious organizations also worry—they don't generate taxes. So, the Becket Fund for Religious Liberty were Amicus supporting petitioners.

When I took this job I vowed to uphold the Constitution. I will work with my colleagues, the Institute for Justice, the NAACP, the American Farm Bureau, AARP, Cato Institute, the National Association of Homebuilders, Reason

Foundation and other property rights advocates, to take back the Fifth amendment.

#### PERSONAL EXPLANATION

### HON. NICK J. RAHALL, II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 28, 2005*

Mr. RAHALL. Mr. Speaker, I was unavoidably detained on official business on the afternoon of Monday, June 27, 2005. Had I been present I would have voted in the following manner: rollcall vote No. 322: yea; rollcall vote No. 323: yea.

#### TRIBUTE TO HOWARD ELINSON

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 28, 2005*

Mr. WAXMAN. Mr. Speaker, Mr. BERMAN and I ask our colleagues to join us today in honoring Dr. Howard Elinson, who was born on the 11th of January, 1940 in New York City and who passed away on Friday June 17th, 2005 in Los Angeles at Midway Hospital.

Howard earned his B.A. and his Ph.D. in Sociology at UCLA. He taught for 1 year at Yale and for 7 years at UCLA. He worked as Administrative Assistant and Consultant for 27 years for Congressman HENRY WAXMAN. Six of those years were when Mr. WAXMAN was a State Assemblyman.

Howard is survived by his beloved and devoted brother Mark who is an admired and respected high school teacher of Social Studies in the Los Angeles City School system. He also serves as an Adviser to the L.A. Unified School District, instructing Social Studies teachers on the best techniques for teaching Social Studies.

Howard Elinson was and is unforgettable to any or all who knew or met him (no matter how casually or for how short a time). He changed the life of everyone in his personal orbit by his magnetic personality his unique insight into the human condition, his sharp wit his gigantic intellect his mastery of any human behavior subject, and his generosity and kindness.

But, unknown to most Californians and "Angelenos" (and unmentioned in media accounts) Howard Elinson changed the face of California and Los Angeles politics.

It was Howard Elinson who conceived and invented individually targeted computerized mail—the campaign technique that was instrumental in the 1968 primary election victory of HENRY WAXMAN for State Assembly (by, still to this date, the largest margin against an incumbent—this one a 26 year incumbent—of his own party), and the 1972 primary and general election victory of HOWARD BERMAN for State Assembly (the general against, ironically, a 26 year Republican incumbent).

It was Howard Elinson's ideas that were instrumental in electing Congressman HENRY WAXMAN, Congressman HOWARD BERMAN, Congressman Mel Levine, Congressman Julian Dixon, State Senator Herschel Rosenthal, State Assemblyman Burt Margolin, State Assemblyman Terry Friedman, and countless others.

And it was Howard Elinson who inspired the strategy and direct mail efforts that led to the election of Mayor Tom Bradley in 1973.

But Howard Elinson's life was much more than about politics. As a devout and Orthodox Jew his faith came first. And imagine this dark suited, yarmulke wearing, fast-talking man writing the "early 60's seminal study" of voting behavior for his Ph.D. thesis. He conducted lengthy and open-ended interviews, drawing out in their homes 50 white working class voters in Bell, California—the then-place-of-entry of the vast immigration from Oklahoma, the mid-west and the South to Southern California.

These Christian and working class people had perhaps never before met a Jew—and certainly not a readily recognizable Orthodox Jew. Yet they opened their hearts to this amazing man. They trusted him—no matter how "New York" he spoke, no matter how foreign he might have looked. That was the uniqueness, the special nature of Howard Elinson.

Perhaps inspired by his faith, or by his innate decency, Howard Elinson affected the lives of everyone who knew him. Many dozens of interns, staff, and budding politicians that came through HENRY WAXMAN's office sought Howard Elinson's advice and counsel—both personal and career. Hundreds of young people confused by the conflicts between a traditional religious life and modernity sought Howard Elinson's advice on how to cope—"who better to ask?" Children flocked to him—no child was unworthy of his attention, his sense of playfulness, his devotion to the child's value as a human being. No one in need (whether for a religious cause or in personal need) was turned down for a contribution. Howard Elinson's generosity was open ended and well known.

The untimely death of Howard Elinson was not just a loss to his family and friends, but to the people who have had in him a champion of a tolerant, liberal, and more humane America.

#### DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

SPEECH OF

### HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 24, 2005*

The House in Committee of the Whole House on the State of the Union had under consideration this bill, (H.R. 3010) making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes:

Mr. LANGEVIN. Mr. Chairman, I rise today in opposition to the Labor, Health & Human Services and Education Appropriations bill before us. This bill fails to address the priorities of the American people.

The bill shortchanges critical health care programs, offers the smallest increase to the National Institutes of Health (NIH) in 36 years, and falls to fulfill promises this Congress made