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## **U.S. Continues to Violate International Law by Denying Latin American Temporary Workers Access to Labor Rights Lawyers**

### ***Workers Urge Mexico to Demand Change in US Policy***

**Mexico City, Mexico** – A group of four Mexicans brought to the United States as temporary workers by a United States company filed a supplementary complaint today under the labor side agreement to the North American Free Trade Agreement (NAFTA), seeking enforcement of their rights under the treaty. The workers were denied work and pay they had been promised, were wrongly classified as non-agricultural workers, and were denied access to the federally funded legal aid they needed to seek redress.

In filing the complaint, the workers are joining a group of sixteen temporary workers who filed a similar complaint with the Mexican government last spring. Both complaints were filed in Mexico City because the formal process set up by the NAFTA labor side agreement, called the North American Agreement on Labor Cooperation (NAALC), requires those alleging violations to petition a NAFTA signatory to take up their complaint. The workers are asking the Fox Administration to hold hearings. To date, the Mexican government has not acted on the earlier complaint.

The workers bringing the complaints have substantial support in the U.S. and Mexico. Five U.S. organizations have joined their complaint: International Labor Rights Fund, an advocacy organization dedicated to achieving just and humane treatment for workers worldwide; National Immigration Law Center, a national law center that advocates on behalf of low-income immigrants and their families; Idaho Migrant Council, which provides employment training and support services to migrant workers; Oregon Law Center, which provides free civil legal services to low income people; and Piñeros y Campesinos del Noroeste, a union of farm and forestry workers in the northwest United States.

Six Mexican organizations have joined as well: Centro de Investigación Laboral y Asesoría Sindical, A.C., which provides legal assistance to workers and unions in Mexico; Frente Autentico del Trabajo, an organization of independent Mexican labor unions; National Union of Workers (UNT), representing over two hundred Mexican unions; Red Mexicana de Acción Frente al Libre Comercio, a coalition of organizations concerned with the adverse effects of free trade; Sin Fronteras, I.A.P., which provides legal support, social services and advocacy for immigrant workers in Mexico and elsewhere; Centro de Derechos Humanos, a human rights organization in Mexico City; and El Centro de Derechos Humanos de la Montaña "Tlachinollan" A.C., a human rights organization in Tlapa de Comonfort, Guerrero.

The workers' stories are troubling. Edgar Peña and three other workers left their homes and families in Mexico and traveled to Colorado because a corn grower promised to pay at least \$6.26 an hour for five months of work in food processing. However, once they arrived the workers were offered only sporadic employment in agricultural field work for two and a half weeks. For some of that time they earned only an average of \$2.12 per hour, far below both the wage they had been promised and the legally binding minimum wage.

Additionally, the employer deprived the workers of a number of important labor protections, including eligibility for assistance from legal services lawyers receiving funding from the federal Legal Services Corporation (LSC), by bringing them into the country on the wrong type of temporary work visa. Although federal law requires that temporary workers employed in agriculture be given H-2A temporary work visas, making them eligible for LSC-funded legal services, they were instead given H-2B temporary work visas, making them ineligible for that assistance. The only legal services programs in Colorado receive LSC funding, and so there are no legal services lawyers able to assist Mr. Peña and the other workers. Michael Dale, Director of the Northwest Workers' Justice Project, explains: "When temporary workers like Mr. Peña are unable to get legal representation, they are unable to get the money owed them for their back-breaking work and are vulnerable to many types of exploitation."

The complaint filed last year explains that the NAALC treaty guarantees migrant workers who are in the U.S. legally the ability to enforce their labor rights, access to courts, and fair enforcement proceedings. As part of a reciprocal agreement with Mexico and Canada, the U.S. is supposed to provide migrant workers with the same workplace protections as native-born workers.

Representing the workers and the supporting organizations are Laura Abel and Emily Chiang, Associate Counsels at the Brennan Center for Justice at NYU School of Law; Michael Dale, Executive Director of the Northwest Workers' Justice Project in Portland, Oregon; Bill Beardall, Executive Director of the Texas-based Equal Justice Center; and Maria Andrade of the Andrade Law Office of Boise, Idaho.

**Additional materials regarding the workers' complaints and last year's complaint are available at: <http://www.brennancenter.org>**

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