



Factory workers standing in solidarity. Photo courtesy of: Blue Planet Studio/shutterstock

Effective and Reciprocal Labor Enforcement Should Be a Priority for an Inclusive USMCA and North America

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The United States Mexico Canada Agreement (USMCA) was born from a threat and a promise. The threat was to eliminate the North American Free Trade Agreement, NAFTA, altogether despite the huge regional market it helped create. The promise was to make that market more beneficial to the U.S. and specifically to workers. Eventually, the three countries reached an agreement, but what exactly is the USMCA's vision?

In many ways USMCA continues NAFTA, but it also includes important changes, notably on labor

enforcement. These changes, if given force and direction, could amount to a compelling vision for inclusive trade in USMCA and across the continent. It can help shape a new generation of trade agreements and economic relations with others.

An important kernel of this vision can be found in Mexican labor law reform and the new firm-specific enforcement mechanism known as Rapid Response Labor Mechanism (RRM) built into USMCA and already being actively applied.



Agriculture workers are often left out of bargaining agreements. Photo courtesy of: F Armstrong Photography /shutterstock.com

For years, Mexican labor relations made union representation and collective bargaining a sham. Now, workers employed by companies that participate in the USMCA are ensured the ability to organize and constitute unions, elect the union of their choice, and bargain collectively. It includes the right to vote in free, personal, and secret elections. In short, it means workplace democracy could finally become a reality in Mexico.

The RRM has already proved to be an effective mechanism in two cases. In a case involving workers at a General Motors (GM) facility in Silao, Guanajuato, the RRM prompted a review of the ratification of the existing collective bargaining agreement between the Confederación de Trabajadores Mexicanos (CTM)-affiliated union and GM. Upon a finding of serious irregularities and coercion, a new vote in July 2021 resulted in workers rejecting the CTM contract.

The second case involved violations of workers' right to organize at Tridonex auto part manufacturing plants in Matamoros Tamaulipas. Under the resulting agreement, Tridonex agreed to pay \$600,000 in severance and back pay to dismissed workers and to take measures to ensure workers' collective-

bargaining rights. Tridonex workers recently voted overwhelmingly to elect an independent union as their representative over the prior CTM union.

Resolved in less than a year, these cases signal to other workers in the sector, whose unions don't represent their interests, that they too can organize for a better deal. Indeed, a third case, involving workers in a Panasonic automotive facility in Reynosa, Tamaulipas, was recently filed.

All this sounds encouraging, but there's a catch. A glaring problem with this mechanism is that it omits important sectors, like agriculture, where workers' rights violations in the U.S. are common and is tilted against application in the U.S. Even in the sectors of manufacturing, mining, and services, the RRM only covers the right to freedom of association and collective bargaining. Furthermore, while in Mexico an action can be brought irrespective of actions in national courts, in the U.S. a complaint can only be brought under an "enforced order" of the National Labor Relations Board, when domestic remedies have been exhausted. This threshold effectively excludes workers in the U.S. from the protection and remedies offered by the RRM.



Consider the following scenario. A Mexican woman working in a maquiladora facility in Tijuana would be protected if she wants to form a union and is fired as a result. The RRM provides her a remedy. But if that same woman went to California to work in the fields on a guest-worker H2-A visa, she would be woefully unprotected. If she was fired for trying to organize, or was discriminated against, her only option under USMCA would be the traditional dispute resolution mechanism, hoping the Mexican government would bring a claim against the U.S. This process can take years and the remedies would be too indirect to help her.

This asymmetry in treatment is already evident. Two Mexican migrant worker women filed a petition against the U.S. under the USMCA, supported by a binational coalition of more than 35 non-governmental organizations. The petition alleges widespread practices of sexual violence and harassment in the workplace, and gender discrimination in hiring and pay. While the two RRM cases have provided relief to workers in Mexico, this petition has stagnated. A year after they filed the petition, the coalition has expressed its frustration stating that the U.S. “government’s failure to act perpetuates violence for women across borders.”

There is no good reason to treat workers differently in the same regional market and to exclude rights that we consider fundamental from effective enforcement. The USMCA includes a joint review mechanism scheduled for 2026 whereby members can, based on the first six years’ experience, course-

correct and improve the agreement. Addressing this unequal treatment should be a priority.

Enforcement of labor rights cannot rely solely on an improved dispute resolution mechanism -even if it was entirely reciprocal. We need to reinvigorate processes of detection, monitoring and remediation that could take place in the shadow of dispute resolution. USMCA contains mechanisms of labor cooperation, and it has a trade commission that can make sure these processes are used and that labor rights remain prominent in the trilateral agenda.

All three current national governments agree on the importance of focusing on workers, and on including those previously underrepresented in the trade agenda. Beyond USMCA, there are trilateral and bilateral cooperative mechanisms, such as the North American Leaders Summit agenda and the US-Mexico High Level Economic Dialogue where these adjustments should be central.

At its best, the USMCA offers the chance to build a more inclusive North America and respond to powerful critiques of NAFTA, including job losses and wage stagnation due to unfair competition.

At a moment when nationalist attacks on globalization gain force and concerns about inequality and social inclusion continue to mount, we should inoculate our North American region against the rise of authoritarianism by making sure trade is inclusive and economic prosperity is shared.









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