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Andrea Hunwick

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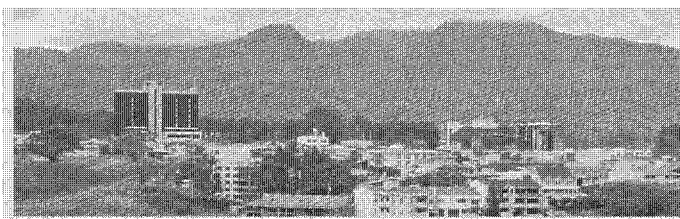
The Central American Free Trade Agreement: Free Trade or Do Women Pay the Price?

By Andrea Hunwick

The Central American Free Trade Agreement (“CAFTA”), a proposal for free-trade between the United States and five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua) and the Dominican Republic was signed by President George Bush on August 2, 2005, and will go into effect in January of 2006.¹ Since 2002, President Bush has aggressively promoted this comprehensive agreement while Congress approved “fast track” provisions to speed up negotiations.² Likewise, many groups have aggressively opposed the treaty, including many who view it as a detriment to the already fragile rights of women in Central America.

CAFTA is modeled after NAFTA, and focuses in large part on the import and export of agricultural and textile goods and business. Bush considers CAFTA a vital piece in his plan for global trade, and for several years he has been promoting the reciprocal benefits he expects both sides will realize under CAFTA.³ In May of 2005, Bush said in support of CAFTA:

CAFTA brings benefits to all sides. For the newly emerging democracies of Central America, CAFTA would bring new investment that means good jobs and higher labor standards for their workers. Central American consumers would have better access to more U.S. goods at better prices. And by passing this agreement, we would signal that the world’s leading trading nation was committed to a closer partnership with countries in our own backyard, countries which share our values.⁴



In San Jose, Costa Rica, many people do not know what to expect from CAFTA.

The biggest domestic proponents of CAFTA consist of more than 80 crop and livestock groups including the National Corn Growers Association (“NCGA”), the American Soybean Association (“ASA”), and the National Cotton Council (“NCC”). NCGA president Leon Corzine believes that CAFTA is beneficial for U.S. agriculture because U.S. agricultural products currently face high tariffs in Central America and the Dominican Republic, and CAFTA would make more than 80 percent of U.S. exports duty free immediately.⁵ After CAFTA, Corzine states that these products will become duty free, thus, increasing U.S. agricultural profits by an estimated 1.5 billion dollars annually.⁶

Furthermore, Commerce Secretary Carlos Gutierrez and U.S. Trade Representative Robert Zoellick have been advocating the ratification of CAFTA to businesses. Gutierrez believes that it exemplifies “free and fair trade,” which “lifts people out of poverty, creates jobs, and creates growth.”⁷ He describes CAFTA as a “win/win” for everyone involved, an agreement that will promote freedom and democracy.⁸ Similarly, Zoellick believes CAFTA will improve business in both Central America and the United States. “[CAFTA] will solidify and create new opportunities to sell to the largest market in the world,” he said.⁹

Opponents to CAFTA, however, believe that either Central America or the United States may be on the losing end of a flawed bargain. Some claim CAFTA poses a threat to the U.S. sugar industry and will have an overall negative impact on U.S. jobs.¹⁰ Additionally, others are concerned about the negative effects that CAFTA will have on impoverished Central American nations.

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Indeed, CAFTA's controversial nature is exemplified by the congressional vote, which was very close with a final vote of 217 to 215 in favor of ratifying CAFTA.¹¹ Minority House Leader Nancy Pelosi (D-Calif.), an opponent to CAFTA, described the voting floor during the ratification of CAFTA as very similar to a "Let's Make a Deal set."¹² When the initial fifteen minute voting period expired, legislators actually defeated CAFTA by a vote of 180-175. However, the vote was held open for an extra forty-seven minutes until, as challengers to CAFTA claim, Republicans could "wrestle" the necessary votes.¹³

Lori Wallach of Public Citizen's Global Trade Watch considers CAFTA "the cancer on democracy."¹⁴ Wallach argues that proponents of CAFTA fail to acknowledge the devastating effect it might have for people in Central America and the Dominican Republic. She says:

The provisions [of CAFTA] are very clear: People with HIV and AIDS who need medicine, who use generics will die now, because they will not get generic drugs because this agreement takes away the ability to produce generic drugs. People in Central America who rely on essential public services, their drinking water, electricity, education, or for instance in Costa Rica, the whole tele-communications system, has to be privatized and deregulated under this agreement.¹⁵

In an official statement against CAFTA, the Women's Edge Coalition ("WEC") stated "[w]e support trade agreements that are fair and help reduce poverty, that's why we OPPOSE CAFTA."¹⁶ Both the WEC and Representative Marcy Kaptur (D-Ohio) believe that CAFTA will have disproportionately negative effects on Central American women.¹⁷

There are several reasons why groups focus on Central American women. First, women head eight to ten million rural households throughout Central America and largely depend on small family farms.¹⁸ Opponents believe CAFTA will crush the agricultural sector in Central America and force thousands of

people into the urban marketplace.¹⁹ CAFTA promotes cash crop for export rather than local consumption, which will likely harm women farmers who will be unable to compete locally with imported U.S. subsidized foods and will ultimately be pushed out of the agricultural market.²⁰

Such will be the case for women farmers at ANDAR, a Costa Rican sustainable living community that adamantly opposes CAFTA. ANDAR is a community-run organization that gives impoverished women their own sections of farmland and teaches them how to cultivate in hopes that they may lead more self-sufficient lives.²¹ ANDAR has had great success in educating women farmers; however, ANDAR relies on the sale of its excess crop in order to continue farm operation and believes that U.S. subsidized products will drive them out of business.²²

Citing CAFTA's resemblance to NAFTA, the WEC notes that following the implementation of NAFTA, poverty increased by 50 percent for female-headed rural households who fell behind in the transition process brought on by NAFTA. The WEC and other adversaries expect the consequences of CAFTA to be at least as detrimental to women of Central America, if not more.²³

In addition to uprooting rural agricultural communities, CAFTA also threatens the livelihoods of many indigenous women, who make up roughly 70 percent of artisans and craftspeople throughout Central America. According to the WEC, the "intellectual property rights" section of CAFTA permits corporations to patent indigenous designs used on ceramics, woven items and other crafts without compensating the indigenous communities.²⁴ Furthermore, it allows pharmaceutical companies to patent medicinal plants that indigenous women have been harvesting for centuries.²⁵

Opponents believe that CAFTA will force many women into the cities, where they will likely have to take jobs in sweatshops, working long hours for minimal pay. Under NAFTA, over a million and a half peasants were forced off their land and forced to migrate to the cities.²⁶ Further complicating these women's futures is the fact that Central American laws afford urban workers very few rights, and the few laws that are enforced provide minimal protection. For

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Federal and State Laws Improve Sex Offender Registry

By Andrea Binion

On September 14, 2005, the U.S. House of Representatives passed the Children's Safety Act of 2005¹ in an effort to protect more children from the psychological and physical damage that associated with being a victim of sexual assault.² The Act is expected to easily pass in the Senate, since few issues garner as much widespread support as those involving the safety and protection of children.³

Congress acted in response to concern over the amount of exposure sex offenders have to children. According to the U.S. Department of Justice, 67 percent of the victims of sexual assault are younger than 18 years old and 34 percent of victims are younger than 12 years old.⁴ The National Center for Missing & Exploited Children ("NCMEC"), an organization advocating improved child protection laws, proclaims sexual assault to be a desperate issue for children because these offenses are associated with a great risk of long-term psychological harm for the victim.⁵

State and federal officials hope their recent efforts will protect more children from the disturbing and damaging effects of sexual assault by improving the sex registry systems that work to keep track of these offenders after they leave prison.⁶

The NCMEC has identified some of the major loopholes in the present child sex offender registry laws. Studies have shown that there are increasing numbers of "lost" sex offenders - those who fail to comply with registration duties and remain undetected due to law enforcement's inability to track their whereabouts.⁷ Of the 550,000 registered sex offenders nationwide, at least 100,000 of those offenders are now lost or unaccounted for.⁸ Among the reasons for losing sex offenders: general mobility of society, stereotypical personality type of sex offenders as loners, and the specific efforts of convicted sex offenders to "forum shop," or research which states have lenient laws, and choose those communities where it is easier to live in relative anonymity.⁹ Because states are free to create their own registration and

notification procedures, the requirements in each state are quite different.¹⁰

Child advocates, including the NCMEC, have recommended changes to the registry system that would enable easier coordination among the people charged with protecting children.¹¹ Advocates have called for federal funding to assist states in maintaining and improving the sex offender registration and notification programs with the desired result being more consistency and uniformity among the state programs.¹²

The NCMEC is also in favor of new technology that would be developed for tracking offenders and improving communication between and among various agencies (law enforcement, corrections, courts and probation).¹³ The Children's Safety Act of 2005 attempts to close some of the loopholes cited by the NCMEC and other child advocates with multiple new registry requirements and increased criminal penalties.¹⁴ The Act proposes a comprehensive, national system for sex offender registration that would eliminate the inconsistencies that come with having so many separate state systems.¹⁵ The national Web site will contain information about all sex offenders in all states and any changes in registry information will be immediately communicated and electronically transmitted to all states.¹⁶ The Act will expand the amount of information required on the national registry to include license plate and vehicle information, along with information about each offender's DNA.¹⁷

The Children's Safety Act of 2005 was introduced by Rep. Jim Sensenbrenner (R-Wis.) with one of its main provisions mirroring a Wisconsin state law, where juveniles who commit sex crimes against children are placed on sexual offender registries along with other convicted sex offenders.¹⁸

Persons convicted in foreign countries for crimes against children also will have to register, as will persons convicted of possession of child pornography.¹⁹ All offenders with felony convictions will be forced to comply with lifetime registration.²⁰

Under the Child Safety Act, offenders must complete initial registration before they are released from prison as opposed to after being released, which is the current procedure.²¹ Offenders must then verify registry information in person every six months and must notify law enforcement within five days of any

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change.²² Offenders will also face increased penalties (a state or federal felony) for failing to register or verify their information.²³ An interesting addition to the sex offender laws is a three-year pilot program in 10 states that will integrate electronic monitoring into the registry program.²⁴

These new requirements are being hailed as great improvements to the system, but it will take time to implement these changes assuming quick passage of the Children's Safety Act of 2005 in the Senate. Fortunately, there are other efforts being made to improve the abilities of law enforcement to protect the safety of children. U.S. Attorney General Alberto Gonzales announced on September 26, 2005 that awards of \$26 million will be allocated to state agencies to help the agencies link to national criminal record systems maintained by the FBI.²⁵ Better integration of the federal criminal databases will allow law enforcement to more effectively organize their child protection efforts.²⁶

The federal government first addressed concerns regarding sex offenders in 1994 with the Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Act ("Wetterling Act").²⁷ The Wetterling Act mandated that every state have a sex offender registry or forfeit 10 percent of federal funds for state and local law enforcement under the Byrne Grant Program.²⁸ Before this law took effect only five states required convicted sex offenders to register their addresses with local law enforcement; today, all 50 states have sex offender registries.²⁹ While the registries provided law enforcement officials knowledge of the whereabouts of convicted sex offenders, the public was not provided with this information until federal law mandated state community notification programs. In 1996, the Wetterling Act was amended to include Megan's Law, which required all states to create Internet sites containing state sex offender information.³⁰ This initiative advanced child protection goals, but some child advocates criticized Megan's Law, because, apart from the required Internet site, it did not set out specific methods of communication between law enforcement.³¹ The states also were given broad discretion in creating their own policies.³² Communities are at a great disadvantage if the whereabouts

of convicted sex offenders are not known because, of all criminals, sex offenders represent the highest risk of repeat offenses.³³

States are also doing their part to protect children from sex offenders. Illinois provides a good example of the national trend of states providing for increased child protection from sex offenders.³⁴ The Illinois Attorney General's Office led an effort to create the Illinois Sex Offender Registration Team (I-SORT), which was established in December 2003.³⁵ I-SORT has recently improved Illinois' sex offender registry by including a Spanish translation and a new label clearly identifying offenders as "sexual predators," those sex offenders who are judged to be the most dangerous to the community and are required to register for life.³⁶ I-SORT also has enhanced the Web site by including information on the criminal history of registered offenders, as well as information on whether the offenders are compliant with the registry laws.³⁷

Sharon Hurwitz, Executive Director of Court Appointed Special Advocates ("CASA") for Children in Illinois, expressed approval for the recent Illinois initiatives aimed at protecting children.³⁸ "Any program that provides for greater protection of children is desperately needed and appreciated because the Illinois Department of Children and Family Services estimates that more than 8,000 children are sexually abused every year in Illinois," Hurwitz said.³⁹

In response to these disheartening statistics, Illinois Gov. Blagojevich signed a bill in the summer of 2005 that created lifetime supervised parole for sex offenders.⁴⁰ The state has also launched an aggressive sex offender management plan that will include more parole agents and support staff to expand the monitoring of sex offenders.⁴¹ The Illinois Department of Corrections will also implement a Global Positioning System and use satellite technology to track movement of parolees.⁴²

Along with improving the sex offender registry and sex offender management plan, Illinois recently has launched the nationally recognized Child Lures Prevention Initiative, which teaches parents and children to recognize potential danger signs and make smart decisions to avoid child predators.⁴³ The program will help protect children against predatory crime.⁴⁴

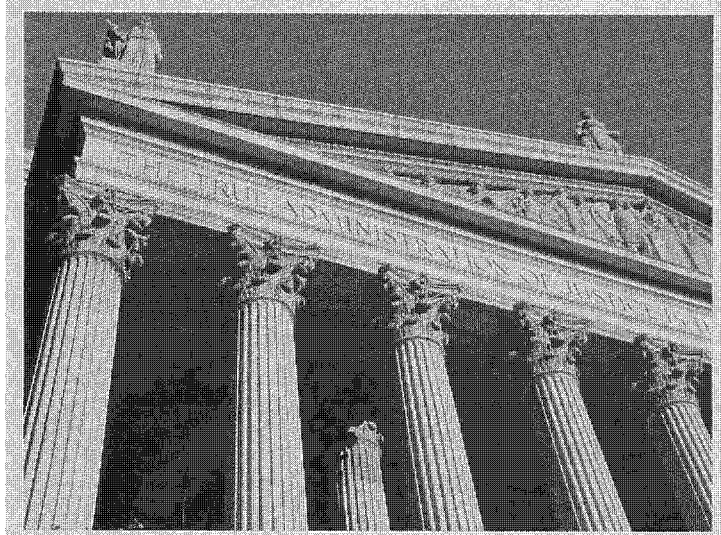
(Sex Offender Registry, continued on page 32)

Supreme Court Says no Federal Guarantee of Protection

By Shauna Coleman

In a landmark decision, the Supreme Court held in *Town of Castle Rock v. Gonzales*¹ that federal law provides no guarantee of a specific police response to domestic violence complaints, even when a restraining order has been issued against a potential perpetrator. The decision stemmed from allegations by a woman in Colorado that the police failed to make a serious effort to enforce a restraining order against her estranged husband, who then killed their three daughters before being fatally shot by the police.² The U.S. Supreme Court ruling protected the city of Castle Rock from a potential \$30 million lawsuit resulting from the police officers' failure to enforce the restraining order.³

Jessica Gonzales, the respondent in *Gonzalez* had obtained a domestic abuse restraining order against her husband.⁴ Several weeks after Gonzales obtained the order, Gonzales' husband took her three daughters, in violation of the protective order, while they were playing outside their home.⁵ Gonzales called the Castle Rock Police Department four times requesting that the restraining order be enforced. She was told to wait for an officer to arrive, but when no one came, she went to the police station and submitted an incident report.⁶ Later that night, Gonzales' husband arrived at the police station and opened fire using a semiautomatic handgun he had purchased earlier that evening.⁷ Police returned fire and killed him.⁸ After the gunfire, the officers inspected the cab of his pickup truck, found the bodies of all three of Gonzales' daughters and discovered that Gonzales' husband had murdered them.⁹



The Supreme Court's ruling in *Gonzales* may have serious consequences for those seeking protection.

Gonzales then brought a civil rights action under 42 U.S.C. § 1983, claiming that Castle Rock had violated the Due Process Clause because its police department had "an official policy or custom of failing to respond properly to complaints of restraining order violations" and "tolerate[d] the non-enforcement of restraining orders by its police officers."¹⁰ Before answering the complaint, Castle Rock filed a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6).¹¹ The District Court granted the town's

motion, concluding that, whether construed as making a substantive due process or procedural due process claim, respondent's complaint failed to state a claim upon which relief could be granted.¹²

A panel of the Court of Appeals affirmed the rejection of a substantive due process claim, but found that respondent had alleged a cognizable procedural due process claim.¹³ On rehearing *en banc*, a divided court

reached the same disposition, concluding that respondent had a "protected property interest in the enforcement of the terms of her restraining order" and that the town had deprived her of due process because "the police never 'heard' nor seriously entertained her request to enforce and protect her interests in the restraining order."¹⁴

The Supreme Court overruled the 10th Circuit Court of Appeals' decision, and held that for purposes of the Due Process Clause, Gonzales did not have a property interest in police enforcement of the restraining order against her husband, even though the police officers had probable cause to believe it had been violated.¹⁵ The Supreme Court reasoned that the Due Process Clause's procedural component does not protect everything that might be described as a government benefit.¹⁶ Rather, the Court maintained,

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