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NAFTA's Labour Side Agreement and International Labour Solidarity

Lance A. Compa
Cornell University, lac24@cornell.edu

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The North American Free Trade Agreement (NAFTA) and its supplemental labour pact, the North American Agreement on Labour Cooperation (NAALC), reflect the uneven advances of labour rights advocacy in connection with international trade. NAFTA provides extensive rights and protections for multinational firms and investors in such areas as intellectual property rights and investment guarantees. The NAALC only partially addresses labour rights and labour conditions. But within its limits, it has shown itself to be a viable tool for crossborder solidarity among key actors in the trade union, human rights and allied movements. The NAALC's principles and complaint mechanisms create new space for advocates to build coalitions and take concrete action to articulate challenges to the status quo and advance workers' interests. Cooperation, consultation, and collaboration among social actors have brought a qualitative change to transnational labour rights networks in North America.

Keywords
North American Free Trade Agreement, NAFTA, North American Agreement on Labor Cooperation, NAALC, labor rights, solidarity, international trade

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NAFTA's Labour Side Agreement and International Labour Solidarity

Lance Compa, Senior Lecturer
Cornell University School of Industrial and Labour Relations
Ithaca, NY 14853
USA
lac24@cornell.edu

Abstract: The North American Free Trade Agreement (NAFTA) and its supplemental labour pact, the North American Agreement on Labour Cooperation (NAALC), reflect the uneven advances of labour rights advocacy in connection with international trade. NAFTA provides extensive rights and protections for multinational firms and investors in such areas as intellectual property rights and investment guarantees. The NAALC only partially addresses labour rights and labour conditions. But within its limits, it has shown itself to be a viable tool for cross-border solidarity among key actors in the trade union, human rights and allied movements. The NAALC's principles and complaint mechanisms create new space for advocates to build coalitions and take concrete action to articulate challenges to the status quo and advance workers' interests. Cooperation, consultation, and collaboration among social actors have brought a qualitative change to transnational labour rights networks in North America.

I. INTRODUCTION

The Rise of Workers' Rights in Trade Policy Debates

For most of the 20th century, demands to incorporate labour rights and standards like freedom to organize and child labour laws into international trade and investment agreements made policy experts grimace. "That's politics," said government officials, international economists, and multinational executives and investors with dismissive waves. "We don't do that, we do trade," they explained as they laid down free trade rules to roll global commerce forward. through Bretton Woods institutions like the World Bank and the International Monetary Fund, global trade groups like the General Agreement on Tariffs and Trade (GATT) and its successor World Trade Organization (WTO), and economic coordinating bodies like the Organization for Economic Cooperation and Development (OECD).

Trade expansion brought an international rule of law for such matters as intellectual property rights, investment guarantees, government procurement, free transit across borders for multinational lawyers, bankers, and executives, and other corporate interests. Meanwhile, workers' calls for social justice in new trade regimes were mostly ignored.

Global commerce and trade agreements had profound, accumulating effects on working people around the world in the last decades of the 20th century. International trade is inherently social and political. Workers have to struggle for justice, power, and protection against labour rights violations in the new global economy. Their struggles are still rooted locally in the places where they work, in the communities where they live, and under the laws of their local, state, and national governments. But the link to the global economy and the growing importance of international rules cannot be denied.

The Labour Rights-Trade Link in NAFTA and the NAALC

Negotiated in 1993 by Canada, Mexico, and the United States, the North American Free Trade Agreement's supplemental labour pact, the North American Agreement on Labour Cooperation (NAALC), sets forth eleven "Labour Principles" that the three signatory countries commit themselves to promote:

1) freedom of association and protection of the right to organize
2) the right to bargain collectively
3) the right to strike
4) forced labour
5) child labour
6) minimum wage, hours of work and other labour standards
7) non-discrimination
8) equal pay for equal work
9) occupational safety and health
10) workers' compensation

11) migrant worker protection.

The NAALC signers pledged to effectively enforce their national labour laws in these eleven subject areas, and agreed to open themselves to critical reviews of their performance by the other countries. It is worth noting that these subjects range far beyond the "core labour standards" recently elaborated by the International Labour Organization (ILO). The ILO's definition is limited to organizing and bargaining rights, forced labour, child labour, and discrimination (ILO 1998). At the same time, however, the NAALC failed to address critical issues of development assistance or worker migration, for example, and did not develop a strategy for upward harmonization of labour standards, emphasizing instead effective enforcement of national law.

Complaint Mechanism

Trade unionists and their allies can file complaints on one or more of these labour principles in a new institutional structure that provides for investigations, public hearings, written reports, government-to-government consultations, independent evaluations, non-binding recommendations and other "soft law" measures common to most international agreements. At each stage, advocates can intervene to press for favorable outcomes.

A "hard law" edge can be applied for three labour principles: those covering minimum wage, child labour, and occupational safety and health. An independent arbitral panel is empowered to fine an offending government for a "persistent pattern of failure to effectively enforce" domestic labour law. If the fine is not paid, the panel can apply trade sanctions on the firm, industry, or sector where workers' rights violations occurred.

II. EXPERIENCE UNDER THE NAALC

For labour rights advocates with patience and willingness to put it to the test, the NAALC has emerged as a viable new arena for creative transnational action. With its unusual "cross-border" complaint mechanism, the Agreement provides an opportunity for workers, trade unions and their allies in the United States, Mexico and Canada to work together concretely to defend workers' rights against abuses by corporations and governments.

The NAALC is not a full-fledged international enforcement mechanism. It is not.intended to resolve specific complaints and to issue orders to reinstate workers unjustly discharged, orders to recognize and bargain with trade unions, orders to remove children from unlawful labour, orders to adjust pay for women to equal that of men, orders to install air filters to reduce health hazards, orders to provide compensation to injured workers, and other remedies associated with labour law enforcement. These matters are left to national legislation and national enforcement mechanisms.

The NAALC is intended as a review mechanism by which member countries open themselves up to investigation, reports, evaluations, recommendations and other measures so that over time such enhanced oversight and scrutiny will generate more effective labour law enforcement. To

the extent legislative responses can be fashioned within national systems, rather than imposed by a supranational power, oversight under the NAALC can also change the climate for labour law reform in each country to achieve greater adherence to NAALC principles and obligations.

Advocates need to be practical about how far governments are prepared to go to hand over traditional sovereignty on labour issues to new international tribunals. Even the European Union, with extensive labour rights provisions that can be enforced by the European Court of Justice, leaves issues of salaries, union organizing and collective bargaining, and the right to strike untouched by EU directives. Single member countries hold veto power over EU policy on social security and social protection, redundancies and other key matters.

In the six years since it took effect, NAFTA's labour side agreement has given rise to a varied, rich experience of international labour rights advocacy. As of January 1, 2001 nearly 25 complaints had been filed under the NAALC. Some observers have called this number distressingly low considering the volume of workers= rights violations in North America. But the NAALC aims to get at systemic problems, not specific worker grievances. Cases so far embrace workers' organizing and bargaining efforts, occupational safety and health, migrant worker protection, minimum employment standards, discrimination against women, compensation for workplace injuries, and other critically important issues. Until now they were hidden in the bureaucratic interstices of each country's national labour law system, with no international scrutiny or accountability. The NAALC is beginning to change that.

A rapid summary of just a few cases – and later a more detailed look at one – suggests how advocates get results. Gains are not made through direct enforcement by an international tribunal. They come obliquely, through indirect action, by exploiting the spaces created by this new labour rights instrument to strengthen cross-border ties among labour rights advocates and to generate unexpected pressures on governments and on transnational enterprises. To be effective, labour rights advocates using the Agreement must seek help from their counterparts across the border.

- In 1996 the provincial government of Alberta, Canada announced plans to privatize workplace health and safety enforcement. Labour inspectors would be sacked and become independent contractors. The public employees' union declared it would file a NAALC complaint charging Alberta with not just failure, but with a complete abdication, of its responsibility to effectively enforce health and safety laws. The government dropped the plan (Chambers 1996a 1996b).

- In 1996 Mexican labour authorities dissolved a small, democratic trade union in the Fisheries ministry when that agency was merged into the larger environmental ministry, where a bigger pro-government held bargaining rights. Together with US human rights groups, the dissident union filed a NAALC complaint in the United States charging failure to enforce Mexican constitutional guarantees of freedom of association. At a public hearing in Washington, D.C., Mexican government officials and leaders of both Mexican unions, labour law experts from both countries, and US labour and human rights

advocates testified, generating wide publicity in both countries and a US NAO report that detailed abuses in a government-mandated trade union monopoly. The smaller, dissident union regained its registration and has continued its activity in the democratic union movement (UNAM 1999).

- Mexican and US telephone workers unions filed a 1997 complaint with the US NAO when workers at the Maxi-Switch electronics factory in Sonora, Mexico tried to form an independent union but were denied registration. Two days before a scheduled public hearing in Tuscon, Arizona (near the Sonora plant) the Mexican government and the Mexican telephone workers union agreed to settle the complaint and cancel the hearing. Registration was granted to the independent union (Resource Center of the Americas 1997).

- A 1997 complaint by a coalition of US and Mexican labour and human rights groups challenged the widespread practice of pregnancy testing in the *maquiladora* factories. A public hearing in Texas near the border area exposed the involvement of well-known US companies like General Motors and Zenith and led to a US NAO report confirming the abuses. Several US multinational firms announced they would halt the practice, and advocacy groups in Mexico launched new efforts for reform legislation to halt pregnancy testing in employment (Dillon 1998).

- US and Mexican labour, human rights, and local community advocacy groups filed a NAALC complaint with the US NAO in1997 against interference with an independent union organizing effort and health and safety violations at a Hyundai Motors supplier called Han Young. A 1998 public hearing in San Diego, California and followup governmental consultations and public forums made the case an international incident. The Mexican labour department applied the first substantial fines against any company for health and safety violations. The independent union gained bargaining rights and has maintained an active, high-profile campaign with international support for securing a collective agreement (Dibble 1999).

- More than twenty trade union and allied organizations filed NAALC complaints in 1997 with the US NAO and in 1998 with the Canadian NAO on violations of workers' organizing rights and health and safety laws at a US company-owned auto parts factory in Mexico City called ITAPSA. The coalition mounted broad-based activity in connection with public hearings in both countries, as well as protests at corporate shareholder meetings. International support has allowed the union to maintain its struggle for recognition (McBrearty 1998).

- A 1999 complaint to the US NAO by flight attendants' unions in the United States and Mexico charged Mexico with failing to enforce freedom of association by denying flight attendants represented by a "wall-to-wall" pro-government union at the TAESA airline the right to form an independent union. A March 2000 public hearing in Washington, D.C. buttressed workers' claims and demonstrated international support for Mexican

flight attendants, who undertook protest actions in major airports. Later in 2000, in a parallel situation at another airline, the Mexican government reversed its stance and allowed flight attendants to vote separately on union representation to avoid a new round of international scrutiny[1]

- Canadian and US unions filed a NAALC complaint with the US NAO in 1998 after McDonald's closed a Montreal restaurant where workers had formed a union. The complaint targeted flaws in Quebec's labour law that allowed companies to close work sites for anti-union motivation. When the US NAO accepted the complaint and scheduled public hearings, Quebec trade unions, employer federations, and labour department officials agreed to take up the matter in a labour code reform bill rather than have Quebec's "dirty laundry" aired in a US public hearing. The unions withdrew the complaint, and the hearing was cancelled (Associated Press 1998; Ginsbach 1999).

- Twenty-five unions, health and safety advocacy groups, human rights organizations and allied community support network filed a major new complaint with the US NAO in 2000 for workers suffering egregious health and safety violations at two Auto-Trim manufacturing plants in the maquiladora region. The 100-page complaint reflects long and careful collaboration among the filing organizations, a high level of technical competency and legal argument, and a powerful indictment of the government's failure to enforce health and safety laws. A public hearing was set for early 2001 (NAFTA 2000).

In each of these cases new alliances were built among groups that had hardly ever communicated until the NAALC complaint gave them a concrete venue for working together. For leaders and activists of independent Mexican trade unions in particular, access to international allies and to a mechanism for scrutiny of repressive tactics long hidden from international public view provided strength and protection to build their movement.

This accounting is not meant to overstate the Agreement's impact. Each of the cases noted here is more complicated than these capsule summaries can convey, and the advantages gained are uneven. Using the NAALC does not mean going from triumph to triumph. But the nature of trade union work in during the current neoliberal offensive, both in the national context and in the context of globalization, is anything but a triumphant march forward. It is more of a hard slog through rocks and mud, usually with more backsliding and sideslipping than progress.

Asking workers to turn to the NAALC to air their grievances must be joined by honest cautions that it cannot directly result in regained jobs, union recognition, or back pay for violations. Unions and allied groups have to weigh the value of using the Agreement in light of staff time, of energy and resources that might be allocated elsewhere, when a specific payoff in new members or new collective agreements cannot be promised. Gains come obliquely, over time, by pressing companies and governments to change their behavior, by sensitizing public opinion, by building ties of solidarity, and taking other steps to change the climate for workers' rights advances in North America. Perhaps over time even direct gains can be achieved as the NAALC system elaborates a kind of labour law jurisprudence for North America that informs decisions

by national bodies. But that goal is still to be met.

The Problem of Sovereignty

It could hardly be otherwise at this stage of regional integration among such diverse countries. Take one of the early NAALC cases, for example, involving Sprint Corp., the US telecommunications giant. In 1994, Sprint closed a San Francisco facility shortly before more than 200 workers there were to vote for union representation. In national legal proceedings, the highest US federal court authorities ruled in the company's favor, saying the evidence showed the closing was a lawful one motivated by business considerations, not antiunionism.

On a separate track, a NAALC complaint led to widely noted public hearings in San Francisco that gave an international platform to affected workers and union leaders from the United States, Mexico and Europe who exposed Sprint's antiunion actions and challenged the company's joint ventures in Mexico and other countries. The NAALC's permanent secretariat published a 250-page study comparing each country's legal regime for antiunion plant closures that highlighted widespread abuses in the US system.

Trade unionists involved in the Sprint case denounced the NAALC as worthless because it did not overturn the federal court's decision and order the company to reopen the plant, rehire the workers with back pay, and recognize the union. Tactically, such denunciations are fair enough as a way to attack Sprint. But to expect the agreement to create an international labour tribunal empowered to independently take evidence and overrule national courts is completely unrealistic.

The Agreement was negotiated by countries with highly developed and highly divergent labour law and labour relations systems. Each is a product of unique time, space, and language-bound social histories. The result was inevitably a compromised hybrid. The states opened themselves to a cross-border oversight mechanism, with limited enforcement powers, while guarding sovereignty over key elements of their national systems. It is not the agreement trade unionists and workers' rights advocates would have written were it left to them, but it was not left to them.

The challenge is to exploit what was written, and to change it over time to strengthen workers' rights. In some cases unwittingly, NAALC negotiators created new space for advocates to communicate, collaborate, strategize and act together, seizing opportunities that had never existed.

A TRANSNATIONAL ADVOCACY PERSPECTIVE

NAALC "Platforms"

Metaphorically, the NAALC can be seen creating a series of sliding platforms crossing the space of one, two or three countries. From these platforms, trade unionists and their allies can direct fire at their own and the others' governments, their own and the others' national and

multinational corporations, even their own and the others' corrupted trade unions.

The platforms can cross borders in equal proportion, or be anchored mostly in one country. They rest first on the Agreement's unique, accessible cross-border complaint mechanism. Workers who suffer abuses, and their defenders, have to file a complaint with the government of *another* country, not the country where violations occurred. Under the agreement, "any person" can file such complaints. There are no citizenship requirements or requirements that a complainant be an injured party or have a material stake in a case.

The result is that social actors that use the NAALC seek partners in the country or country where they intend to file complaints. Indeed, most of the more than twenty cases filed so far have involved transnational coalitions of unions and allied human rights and community groups who find in the Agreement's institutional mechanisms new opportunities to develop relationships and joint action.

Before the NAALC was created, cross-border trade union relationships mostly consisted of thin contacts at two levels. One was between high-level union leaders who attended conferences and conventions and agreed on resolutions of support without much followup. The other consisted of sporadic local union-to-local union contacts and occasional worker-to-worker delegations that usually were aimed at helping the poor Mexicans. These links paled in comparison with the business-to-business contacts and boss-to-boss delegations that occur every day in North American commerce.

The new NAALC platforms allow transnational social actors to demand investigations, public hearings and government consultations on workers' rights violations. Advocates now have the opportunity to strategize and plan together in a sustained fashion, gathering evidence for drafting a complaint, crafting its elements, setting priorities, defining demands, launching media campaigns, meeting with government officials to set the agenda for a hearing and to press them for thorough reviews and followup, preparing to testify in public hearings, engaging technical experts to buttress a case with scientific elements (a health and safety case, for example), influencing the composition of independent experts' panels and the terms of reference of their investigation, and other concrete tasks that go far beyond adopting resolutions or arranging serial worker-to-worker meetings.

Why Bother?

The criticism can be fairly made that this is staff work, not rank-and-file mobilization. It occupies lawyers, researchers, publicists and other union and NGO professionals without engaging workers. Worse, it can create false illusions of relief through bureaucratic legal mechanisms instead of workers' own power. It looks for help from the same governments that are chiefly interested in protecting capital, not labour. For labour radicals, why bother?

Bother for the same reasons workers have to bother with national legal systems: because those are the mechanisms workers have gained after long political organizing and bargaining struggles

in a system that is stacked against them.

Legal work, media advocacy, lobbying and other "inside game" moves are deeply compromised, flawed and frustrating. They are poor, pale, anemic substitutes for rich, red, robust worker mobilization and struggle against corporate power. But the balance of power in a capitalist society – or rather the imbalance of power, accentuated now by globalization of production and investment flows – constricts the space for worker action and makes all the more precious the spaces that become available.

Of course workers must take up struggle through organizing, strikes, demonstrations, protests and other forms of direct action. But they cannot do it all the time, every day, in every dispute. There are inherent limits to time, space, energy, resources and other factors affecting capacity for workers' struggle. More fundamentally, the balance of power is unfavorable. Workers are not now in a position to vanquish the capitalist class or the capitalist state. Their agenda is necessarily a "Plan B" involving selective struggle, incremental gains through politics and legislation, and creative exploitation of national legal institutions as well as new international mechanisms like the NAALC to advance their interests.

Transnational advocacy networks have to work around the lack of "hard law" features which create accountability through trials of evidence, findings of guilt, and enforcement by state power – putting lawbreakers in jail, or seizing their assets to satisfy a financial judgment. Instead, they must exploit the potential for "soft law" mechanisms typical of the NAALC and other international instruments and mechanisms. Soft law is marked by investigations, reviews, research, reports, information exchanges, public hearings (as distinct from trials of evidence), consultations, evaluations, recommendations, declarations, publicity, exposés; the "mobilization of shame," as it is sometimes put, to enforce judgments in the court of public opinion.

These measures should not be scorned or boycotted by social actors, and least by transnational actors looking for openings, spaces, platforms or other bases for creative intervention and exploitation. The challenge is to integrate involvement in institutional settings with action in extra-institutional settings.

This is not meant as a wide-eyed endorsement of using the NAALC at every opportunity. Choices about resource allocation and measurement of potential gains have to be made. Actors face unavoidable compromises using instruments and procedures created by governments more attuned to corporate concerns than to workers' interests. It is just a short step to cooptation if advocates become so enamored of international labour rights instruments like the NAALC that they devalue struggle against the neoliberal agenda, like that in the streets of Seattle.

Given the structurally defensive position of workers in a corporate-dominated system, sole reliance on denunciation, confrontation and rejection, while scorning involvement in efforts to link workers' rights to trade or to use the inevitably flawed agreements that follow, is a self-limiting strategy. Putting all the energy of the international movement against corporate power into protesting WTO and international bankers' conclaves, or launching ad hoc media campaigns

against Wal-Mart's latest sale of products made by child labour, is only one side of a strategic whole. Both sides are needed, and both sides need each other. One is a sharp "no" to the corporate agenda and related mobilization that denounces, exposes, protests and even shuts down – if only for a few hours – the gears of global trade and investment. The other is a savvy, strategic exploitation of pressure points found in international human rights and labour rights instruments, however flawed they may be compared with what labour rights advocates would create on their own without governments or transnational enterprises to contend with.

Contrary to the scornful dismissal of the NAALC by skeptics and critics on the left, fear and loathing mark the views of government and corporate officials at the opposite pole. Former Mexican government officials who made light of the Agreement when it was negotiated in 1993 later condemned it for the scrutiny and condemnation it brought to Mexican labour practices under the spotlight of complaints, public hearings, public reports, government-to-government consultations. One denounced "indiscriminate acceptance" of complaints and warned that the NAALC served "the tactical interests of US unions and so-called 'independent trade unions' in Mexico" (Medina 1999).

US corporate executives and attorneys think the Agreement has been hijacked by trade union radicals to attack company conduct throughout North America, and demand an end to contentious complaint procedures where unions and their allies brand companies as workers' rights violators. An executive of the Washington state apple industry said "unions on both sides of the border are abusing the NAFTA process in an effort to expand their power . . . NAFTA's labour side agreement is an open invitation for specific labour disputes to be raised into an international question . . . and could open the door to a host of costly and frivolous complaints against US employers." (Iritani 1998).

THE WASHINGTON APPLE CASE

The Washington state apple case is a rich example "platform-building" by strategic use of the NAALC and how it can foster new ties of solidarity and sustained work among labour rights advocates in the United States and Mexico. More than 50,000 Mexican workers labour in the orchards and processing plants of the largest apple-growing region in the United States. Employers crushed their efforts throughout the 1990s to form trade unions, to bargain collectively, to have job health and safety protection, to end discrimination, and to make other workplace gains.

In 1997 the Teamsters union and the United Farm Workers agreed to develop a NAALC case on these issues. They reached out for support to Mexican unions, farmworker advocacy groups, and human rights organizations. A complaint was drafted, translated and redrafted to the satisfaction of the newly-formed network. In May 1998 the question was then posed: who should sign the complaint, which would be filed with the Mexican labour department? Put another way, who would be publicly identified as the parties that triggered international scrutiny of labour abuses in Washington State that might result in sanctions against apple exports to Mexico? Mexico is the largest single export market for Washington apples, and since the complaint addressed health

and safety violations among many others, it was susceptible to sanctions.

The two US unions were each trying to organize apple workers, one in the orchards and one in the processing plants. They wanted to avoid employers' countercharges that they were out to destroy apple workers' jobs. On the Mexican side, the independent union allies in the *Unión Nacional de Trabajadores* (UNT), the *Frente Auténtico del Trabajo* (FAT), the *Frente Democrático de Campesinos* (FDC) and other groups working with their US counterparts were sensitive to government and official union accusations that they were "puppets" of protectionist US unions. At the same time, from an inside-Mexico competitive standpoint, they wanted to be seen as frontline defenders of migrant workers in the United States, ahead of the official unions and ahead of the PRI government.

After careful consultations through personal visits, telephone conference calls, e-mail exchanges and other communications among key leaders and staffers of all these organizations, the complaint was officially signed by just the Mexican organizations, not by any US groups. An American NGO, the International Labour Rights Fund, became the public face of a media campaign in the United States, issuing press releases and sending an investigator to the apple growing region to meet with workers about the cases and to interview potential witnesses for a hearing to be held in Mexico, with behind-the-scenes help from the unions. An experienced organizer from the FAT came to Washington to help the unions in their organizing efforts. The AFL-CIO's Solidarity Center pledged financial support to send Washington apple workers to Mexico for the hearings. Less than one month after the Washington State apple complaint was filed in Mexico, the CTM – the official, pro-government union federation in Mexico – filed its own first-ever NAALC complaint over treatment of migrant Mexican workers at an opposite corner of the United States, in the Easternmost state of Maine.

In December 1998 a hearing in the case was held in Mexico City. Advocates faced another strategic decision. Should worker witnesses be Mexican migrants alone, which would obviate the need for translation and allow more workers to testify? Or should non-Mexican, English-speaking workers also participate (many Anglo workers are employed in the processing plants, not in the orchards, which are entirely Mexican migrants) at the cost of a bumpier hearing process? US advocates first suggested an all-Mexican, Spanish-only project. But Mexicans thought the effort would be strengthened by presenting united interests of both Mexican and American workers. Long-time Anglo workers joined the delegation and the unions provided interpretation for them during press conferences, during meetings with Mexican workers and trade unionists, and at the hearing at the Mexican labour department. Their shoulder-to-shoulder stance with Mexican coworkers lent a powerful image of solidarity to the public face of the campaign.

The hearing in Mexico City itself was a dramatic example of the reach of the NAALC "platform" and the leaping of spatial, language and cultural boundaries in the North American context. Half a dozen officials from an agency of the Mexican government heard, in their own language, accounts of labour rights abuses by a delegation of Mexican workers employed in the United States thousands of miles to the North in an industry for which Mexico is a major

consumer market. The hearing was prompted by a complaint initiated by US trade unionists in Washington State, Washington D.C. and California (site of the United Farm Workers union headquarters; the Teamsters union headquarters are in Washington, D.C.), then filed by allies in Mexican labour and human rights organizations in Mexico City after lengthy cross-border planning.

At the hearing, the Mexican workers were joined by Spanish-speaking US trade union representatives and human rights attorneys, by Mexican independent union and farmworker advocates, and by English-speaking co-workers who deliver their own duly interpreted testimony in English.

The Mexican labour department later issued a report demanding consultations between the labour secretaries of the two countries. They agreed on a program, due to be implemented in early 2001, of public outreach and public hearings chaired by US and Mexican officials from the two federal governments and from the state government. The forums would take place in the apple-growing region of Washington, where large numbers of workers are prepared to testify about conditions in both Spanish and English.

In succession, labour advocates used the NAALC to build multiple, accumulating pressure on corporations, governments and unions. The NAALC provided concrete means of pressing the apple growing industry to improve conditions or risk losing the Mexican market; pressing the government of Mexico to conduct a thorough review of the complaint, to hold public hearings for workers from the United States, and to issue a strong report seeking ministerial consultations. Using the NAALC led to the *officialista* Mexican labour unions taking their own action on behalf of Mexican migrants in the United States by filing the NAALC complaint on events in Maine. It also served to pressure the US government to agree to public events in Washington State and to devote its own energies to seeking improved conditions, and to pressure the state government to take steps in matters of state competence to improve conditions, especially with regard to worker housing and safety and health. While cycling from national to transnational arenas, every step was accompanied by a media campaign that kept the dispute in the public eye and shaped a new, rights-based discourse linked to North American economic integration.

CONCLUSION

The apple case shows how expanding coalitions of trade union, human rights, migrant worker, women's rights and other progressive communities involved in using the NAALC are adding new chapters to stories already known of transnational advocacy networks using new international instruments and institutions to promote their goals (Helfer and Slaughter 1997; Keck and Sikkink 1998; Koh 1991; Smith, Chatfield and Pagnucco 1997; Mitchell 1998)[2]. Admittedly, the new networks until now have mostly engaged trade union and NGO leaders, organizers, lawyers, researchers, publicists and other cadres, not masses of workers in a genuine transnational social movement. But constructing and strengthening ties among these cadres is a precondition to a new global solidarity unionism that is the longer-term goal (Waterman 2000)

The new instruments and institutions of international labour rights advocacy reflected in the NAALC are flawed. But they create spaces, terrains, platforms and other metaphorical foundations where advocates can unite across frontiers and plant their feet to promote new norms, mobilize actors, call to account governments and corporations, disseminate research findings, launch media campaigns, educate each other and the public, challenge traditional notions of sovereignty, give legitimacy to their cause by invoking human rights and labour rights principles – in sum, to redefine debates and discourse by breaking up old frameworks and shaping new ones[3].

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[1] The author has personal knowledge of this development as he serves as legal counsel to the Mexican and US flight attendants unions in the case.

[2] I am indebted to Jonathan Graubart, a PhD candidate at the University of Wisconsin for pointing to these sources in his forthcoming doctoral dissertation. The distinction between a transnational social movement and a transnational advocacy network is elaborated by Sidney Tarrow (Tarrow 1999).

[3] One useful description is that of "transnational norm entrepreneurs" (Finnemore and Sikkink 1998).