A Lesson from NAFTA: Can the FTAA Function as a Tool for Improvement in the Lives of Working Women?[†]

HANNAH L. MEILS[*]

INTRODUCTION

A review of international data indicates that nearly without exception, women are economically disadvantaged as compared to their male counterparts.[1] Women make up 70% of the World's 1.3 billion poor.[2] Globally, while women contribute 66% of the hours worked each day, they earn only 10% of the World's income.[3] In the United States, approximately 26% of all female-headed families live in poverty, while only approximately 5% of families in which males are present live under such conditions.[4] In Brazil, women working in manufacturing jobs earn 61% relative to that of men.[5] In Mexico, women working in manufacturing jobs earn 70% relative to that of men.[6]

Meanwhile, in an attempt to facilitate the transition into what some term a "global economy," many countries have collaborated to assemble international trade and

---

* J.D. Candidate, 2003, Indiana University School of Law–Bloomington; B.A., 1998, Indiana University. I would like to thank Ryan Otten for his support and sense of humor throughout law school and long before. I would also like to thank my parents, Karen Meils and Steve Meils, both of whom have taught me a great deal about generosity and perseverance.

1. Edna Acosta-Belén & Christine E. Bose, *Colonialism, Structural Subordination, and Empowerment*, *in* WOMEN IN THE LATIN AMERICAN DEVELOPMENT PROCESS 20 (Christine E. Bose & Edna Acosta-Belén eds., 1995).

2. U.N. Report on Women (1975).

3. Acosta-Belén & Bose, *supra* note 1, at 20.

4. Institute for Research on Poverty, *Frequently Asked Questions*, *at* http://www.ssc.wisc.edu/irp/faqs/faq3.htm (last visited Feb. 3, 2003).

5. United Nations Statistics Division, *The Worlds Women 2000: Trends and Statistics*, *at* http://unstats.un.org/unsd/demographic/ww2000/table5g.htm (last visited Feb. 3, 2003).

6. *Id.*

investment agreements. These international trade agreements have the potential to serve as tools to remedy some of the economic inequities women face by setting forth specific labor protections. The North American Agreement on Labor Cooperation ("NAALC"),[7] a side agreement passed along with the North American Free Trade Agreement ("NAFTA"),[8] included provisions for the protection of the member countries' laborers. The provisions of the NAALC did not, however, include protections strong enough to counter specific problems faced by women.

Presently, all countries of the Western Hemisphere are negotiating a trade agreement termed the Free Trade Area of the Americas ("FTAA"). This agreement offers a unique opportunity to rectify the weaknesses contained in the NAFTA and NAALC agreements and to strengthen the protections available for women laborers.

Some have argued that labor provisions have no place within international trade agreements because the implementation of trade agreements among countries has a "trickle down effect," meaning that as the governments, corporations, and investors become wealthier within a given country, the average person within the country will benefit as well.[9] As will be seen, however, the "trickle down" theory has not proven accurate in reality.

This Note will discuss the ways in which NAFTA has failed to offer women laborers sufficient protections and will outline the ways in which future trade agreements, including the FTAA, can offer strengthened protections for women. This Note will first counter the argument made by those who believe that labor concerns have no place within international trade agreements. It will then address the problems that women have faced in getting their specific labor needs addressed. Then, the Note will outline the substantive and procedural provisions contained within the NAFTA and NAALC agreements and point to specific areas where women's labor needs were underaddressed, or simply not addressed at all. Finally, this Note will outline several ways in which the lessons from NAFTA will allow the creation of a strong, women's-labor-friendly international trade agreement with the FTAA, if only negotiators will heed the failings of the NAFTA and NAALC agreements.

I. OVERVIEW

In an attempt to facilitate the transition into what some term a "global economy," many countries have collaborated to assemble international trade and investment agreements. In 1992, the Prime Minister of Canada and the Presidents of the United States and Mexico signed such a multilateral trade agreement called the North American Free Trade Agreement ("NAFTA").[10] NAFTA went into effect on January 1, 1994.[11]

---

7. Agreement on Labor Cooperation, Sept. 13, 1993, U.S.-Mex.-Can., 32 I.L.M. 1499 [hereinafter NAALC].

8. Agreement on Free Trade, Dec. 17, 1992, U.S.-Mex.-Can., 32 I.L.M. 289 [hereinafter NAFTA].

9. Marjorie Cohn, *The World Trade Organization: Elevating Property Interests Above Human Rights*, 29 GA. J. INT'L & COMP. L. 427, 428 (2001).

10. John M. Broder, *U.S., Mexico, Canada Heads Sign Trade Pact Accord: Support Is Widespread in Mexico, Mixed in Canada*, L.A. TIMES, Dec. 18, 1992, at D1.

11. Betty Southard Murphy, *NAFTA's North American Agreement on Labor Cooperation:*

Supporters of multilateral trade agreements argue that their implementation will have a "trickle down effect," meaning that as the governments, corporations, and investors become wealthier within a given country, the average person within the country will benefit as well.[12] Government negotiators have used this rationalization to avoid and deflect requests by marginalized groups, such as labor and women's organizations, to have a voice in the negotiations of these global trade agreements.[13] The multilateral trade agreements, it has been argued, have no negative impact upon these marginalized groups, and, as a consequence, these groups have no business at the negotiating table.[14]

As will be discussed, however, this "trickle down" theory has not proven accurate in reality.[15] Since the passage of NAFTA, there has been an increased stratification between those with the most wealth and those with the least.[16] Additionally, trade agreements significantly impact labor, and women's labor in particular.[17] Conversely, women's labor significantly affects trade.[18] Yet, despite these realities, labor organizations and women's organizations have consistently been denied a seat at the negotiating table for international trade agreements.[19] The view that labor does not fall within the scope of international trade has rendered inadequate the minimal protections that have been provided within international trade agreements, such as NAFTA, for labor generally and women's labor in particular.

Nevertheless, NAFTA and the side agreement regarding labor negotiated along with NAFTA, called the North American Agreement on Labor Cooperation ("NAALC"), were termed a success by member governments.[20] Immediately after its passage, the NAFTA member governments began discussions to expand a NAFTA-like agreement to all of the countries contained within the Western Hemisphere.[21] While an expansion of the NAFTA agreement itself proved unworkable, in 1994, thirty-four countries within the Western Hemisphere met at a meeting called the Summit of the Americas and announced their goal to create a hemispheric free trade zone.[22] This trade zone is to be called the Free Trade Area of the Americas ("FTAA").[23] The FTAA constitutes

---

The Present and the Future, 10 CONN. J. INT'L L. 403, 403 (1995) (stating background information regarding the NAFTA).

12. *See* Cohn, *supra* note 9, at 428 (explaining why multilateral trade agreements do not, in fact, give rise to such a "trickle down effect").

13. *See* Nicole L. Grimm, Comment, *The North American Agreement on Labor Cooperation and Its Effects on Women Working in Mexican Maquiladoras*, 48 AM. U. L. REV. 179, 185 (1998).

14. Chantell Taylor, *NAFTA, GATT, and the Current Free Trade System: A Dangerous Double Standard for Workers' Rights*, 28 DENV. J. INT'L L. & POL'Y 401, 411-12 (2000).

15. *Id.*

16. *See infra* text accompanying notes 47-48.

17. *See infra* text accompanying notes 68-73.

18. *See infra* text accompanying notes 68-73.

19. Grimm, *supra* note 13, at 185.

20. *Id.* at 180.

21. Jonathan S. Blum, Comment, *The FTAA and the Fast Track to Forgetting the Environment: A Comparison of the NAFTA and the MERCOSUR Environmental Models as Examples for the Hemisphere*, 35 TEX. INT'L L.J. 435, 437-38 (2000).

22. *Id.* at 435-36.

23. *Id.*

an effort by all of the western hemispheric governments (excluding Cuba) to eliminate "barriers to trade and investment."[24] The objective of the FTAA is to remove restrictions on the free movement of "capital, goods, and services" between countries in the Western Hemisphere.[25] The FTAA is projected by its negotiators to be completed by the year 2005.[26]

However, the same difficulties that plagued NAFTA present similar problems for the FTAA.[27] Thus far, drafts of the FTAA have failed to include provisions to protect labor concerns.[28] Labor and human rights groups have become vocal opponents of the FTAA.[29] These groups believe that the FTAA will "empower corporations to constrain governments [sic] ability to set standards for public health and safety, to safeguard the rights of their workers, and to ensure that corporations do not pollute the communities in which they operate."[30] Despite these concerns, labor representatives have been excluded from the FTAA negotiations.[31] Organizations concerning labor and human rights requested a working group that could influence FTAA negotiations; however, these requests were denied.[32] Opponents of the FTAA fear that this lack of representation by labor and human rights groups will result in a hemispheric trade agreement lacking a conscience.[33]

The FTAA presents a unique opportunity to account for NAFTA's failures and to rectify them. While NAFTA was historic in that it was the first international trade agreement in which the United States participated that included provisions for labor, it has not been fully effective in securing labor rights within the member nations.[34] Significantly, many of women's unique labor needs were ignored altogether.[35] Recognizing where the NAFTA agreement failed women laborers will allow women to more effectively lobby governments to address their concerns with the FTAA. The FTAA could serve as an effective tool in protecting the labor needs of women, if only negotiators will heed the lessons learned from past mistakes.

II. ROLE OF LABOR ISSUES IN TRADE NEGOTIATIONS

Supporters of trade agreements such as NAFTA have argued that opponents of liberalized trade are simply anti-globalization.[36] An anti-globalization stance is viewed

---

24. *Overview of the FTAA Process*, *at* http://www.ftaa-alca.org/View_e.asp (last visited Feb. 3, 2003).

25. Sheryl Dickey, *The Free Trade Area of the Americas and Human Rights Concerns*, 8 HUM. RTS. BRIEFS 26, 26 (2001).

26. Global Exchange, *Frequently Asked Questions About the Free Trade Area of the Americas (FTAA)*, *at* http://www.globalexchange.org/ftaa/faq.html (last visited Feb. 3, 2003).

27. *Id.*

28. *Overview of the FTAA Process*, *supra* note 24.

29. Robin Wright, *Summit of the Americas: Activists in Quebec Show Evolution of an Opposition*, L.A. TIMES, Apr. 21, 2001, at A10.

30. Global Exchange, *supra* note 26.

31. *Id.*

32. *Id.*

33. Wright, *supra* note 29.

34. Grimm, *supra* note 13, at 181-82.

35. *Id.* at 197.

36. Wright, *supra* note 29.

as impracticable and naïve in a time where globalization is no longer seen as a policy choice, but as a fact.[37] However, the opponents of modern trade agreements, for the most part, are not anti-globalization.[38] Instead, they oppose the path that current globalization has taken.[39] They protest the corporate control and the lack of consideration for the human toll that modern trade agreements and globalization have taken.[40] They too see globalization as inevitable, and not an unwelcome occurrence.[41] What they have been seeking is recognition that the *form* that globalization has taken is not inevitable.[42] Policy choices are contained within current trade agreements.[43] Thus far, the policy choice has been to exclude labor from the negotiating table.

There has been significant debate about the propriety of labor provisions within trade agreements. Opponents of placing labor provisions within trade agreements have offered a variety of reasons in support of their position. One argument is that benefits to society's overall social welfare will automatically flow from the economic growth spurred by free trade, and that consequently there is no need to make special provisions for social concerns within the trade agreements themselves.[44] A second argument is that labor provisions are a matter of domestic concern and any attempt to force nations to adopt workers' rights provisions would infringe upon the sovereignty of negotiating members.[45] A third argument against the inclusion of labor provisions within trade agreements is that international trade agreements are not the appropriate forum in which to undertake social legislation.[46] These arguments will be addressed in turn.

A. The Placement of Labor Provisions Within Trade Agreements

Many opponents of the inclusion of labor provisions within trade agreements have argued that benefits to social welfare will automatically accrue from the economic prosperity free trade is promised to bring. The theory is that as a nation's government and businesses prosper from reduced trade barriers, this prosperity will "trickle down" to the benefit of all of society.[47] President George W. Bush signaled his belief in this theory when he stated that "[f]ree and open trade creates new jobs and new income. It lifts the lives of all our people, applying the power of markets to the needs of the poor."[48]

---

37. Taylor, *supra* note 14, at 432.

38. Wright, *supra* note 29.

39. *Id.*

40. *Id.*

41. *Id.*

42. *Id.*

43. Taylor, *supra* note 14, at 432.

44. Dinah Shelton, *Protecting Human Rights in a Globalized World*, 25 B.C. INT'L & COMP. L. REV. 273, 292 (2002); Bobbi-Lee Meloro, Comment, *Balancing the Goals of Free Trade with Workers' Rights in a Hemispheric Economy*, 30 U. MIAMI INTER-AM. L. REV. 433, 444 (1998).

45. Meloro, *supra* note 44, at 444.

46. *Id.*

47. *But see* Cohn, *supra* note 9, at 428 (arguing that national prosperity does not, in fact, "trickle down" to benefit all citizens).

48. Robin Wright, *Bush Says Free Trade Is Key to Meeting Needs of Poor*, L.A. TIMES, Apr. 22, 2001, at A1.

There are a number of factors that chip away at the theory that prosperity for all will necessarily follow from free trade. Most importantly, since the passage of NAFTA, there has been an increased stratification between those with the most wealth and those with the least. Since the enactment of NAFTA, the number of people living in poverty in Mexico has increased and wages have decreased.[49] In the United States, the wages of lower-income workers have decreased, while corporate profits have soared.[50] In fact, President Bush acknowledged these trends when he commented that "[s]ome complain that despite our democratic gains, there is still too much poverty, inequality. Some even say that things are getting worse, not better. For too many, this may be true."[51]

The ability of liberalized trade to improve the conditions of all within a country is dependent upon the way that the liberalized trade is structured. According to one commentator, "[t]rade has the power to create opportunities and support livelihoods; and it has the power to destroy them."[52] According to this commentator, "[t]he human impact of trade depends on how goods are produced, who controls the production and marketing, how the wealth generated is distributed, and *the terms upon which countries trade*. The way in which the international trading system is managed has a critical bearing on all of these areas."[53] According to this view, benefits do not automatically accrue upon the passage of agreements liberalizing trade; the agreements must be structured in such a way so as to foster the improvements sought.

A second factor that works to contradict the theory that labor provisions are unnecessary within trade agreements is the role played by the multinational corporation ("MNC"). MNCs are corporations that are headquartered in one country and that operate factories and other business across national boundaries.[54] Because MNCs are international in nature, "they 'are uniquely situated to [benefit from] the liberalization of free international trade.'"[55] As businesses focused upon profits, MNCs have an incentive to locate their factories where production costs are the lowest.[56] With the lowered trade barriers resulting from trade agreements, MNCs are free to relocate to the nation in which production costs are the lowest.[57] The incentive for MNCs to relocate has caused some to fear that nations will begin to compete with each other in what has been termed a "race-to-the-bottom."[58] The theory is that with the ever present threat that MNCs will relocate, nations will compete with each other to maintain conditions most favorable to MNCs.[59] Countries will suppress minimum wages and minimum worker safety standards to remain an inviting host to MNC business.[60] Under

---

49. Cohn, *supra* note 9, at 428.

50. *Id.*

51. Wright, *supra* note 48.

52. KEVIN WATKINS, THE OXFAM POVERTY REPORT 109 (1995).

53. *Id.* at 109-10 (emphasis added).

54. Meloro, *supra* note 44, at 446.

55. *Id.* (quoting Karen V. Champion, *Who Pays for Free Trade? The Dilemma of Free Trade and International Labor Standards*, 22 N.C. J. INT'L L. & COM. REG. 181, 192 (1996)).

56. *Id.*

57. *Id.*

58. *Id.*

59. *See id.*; Shelton, *supra* note 44, at 295-96.

60. *See* Meloro, *supra* note 44, at 446; Shelton, *supra* note 44, at 295-96.

this theory, while a country may benefit from the increased production upon its soil, workers will not similarly enjoy that benefit. In fact, according to this theory, the ability of the government and MNCs to profit depends upon the suppression of wages and working conditions.

There has, in fact, been some evidence that the fear of the "race-to-the-bottom," as it is argued would be allowed by liberalized trade, is not unfounded. Modern media is filled with stories of scandal affiliated with the poor working conditions maintained by American companies operating abroad.[61]

B. Potential Impact upon National Sovereignty

A second argument against the inclusion of labor provisions within international trade agreements is that labor provisions are a matter of domestic concern and any attempt to force nations to adopt workers' rights provisions would infringe upon the sovereignty of negotiating members.[62] This argument is unconvincing for a number of reasons. First, the adoption of a trade agreement by any country is voluntary.[63] No party to any international agreement is forced to participate.[64] Second, and more importantly, all trade agreements inherently require member nations to forego some element of their sovereignty.[65] Members to most trade agreements forfeit their sovereign right to impose a number of trade barriers.[66] All countries choosing to enter into international trade agreements forego some aspect of their sovereign ability to make independent decisions.[67] Including labor provisions within these kinds of agreements would impose no unique risk to national sovereignty.

C. Social Legislation or Trade Issue?

A third argument against the inclusion of labor provisions within trade agreements is that international trade agreements are not the appropriate forum in which to undertake social legislation.[68] The International Chamber of Commerce has stated that "the trading system was not designed to address . . . non-trade issues . . . . [To] call on it to do so would expose the trading system to great strain and the risk of increased protectionism . . . ."[69] The crux of this debate revolves around whether labor issues

---

61. *See, e.g.*, Alexander Cockburn, *Commentary: Running From Reebok's Hypocrisy*, L.A. TIMES, Feb. 7, 2002, at B17; Steven Greenhouse, *Beatings and Other Abuses Cited at Samoan Apparel Plant that Supplies U.S. Retailers*, N.Y. TIMES, Feb. 6, 2001, at A14; Steven Greenhouse, *Labor Abuses in El Salvador Are Detailed in Document*, N.Y. TIMES, May 10, 2001, at A12; Andrew Perrin, *Critics Accuse Taiwan of Operating Sweathshops*, S.F. CHRON., Aug. 15, 2001, at A6.

62. Meloro, *supra* note 44, at 450.

63. *Id.*

64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.*

68. *Id.*

69. Taylor, *supra* note 14, at 412 (quoting Peter Capella, *Business Backs Trade Role for UN*, GUARDIAN (London), July 6, 1999).

constitute simply social legislation or whether they too constitute a trade issue.

Labor provisions and trade are interdependent.[70] Labor impacts trade concerns. "[W]here labor rights are enforced, wages and benefits tend to be higher."[71] As labor costs in a given country increase as compared to its trading partners, any competitive advantage enjoyed by the country in its ability to attract foreign direct investment decreases; with the labor provisions, it now costs more to house a business in that country than in the competing trading countries.[72] Additionally, an increase in labor costs reduces the competitive position of the products produced within the country allowing labor rights; either products cost more to produce or the profit margin on the product is reduced in comparison to products produced by countries with fewer or no labor benefits.[73]

Conversely, trade impacts labor.[74] While studies have disagreed upon the extent of NAFTA's impact, many studies have acknowledged that the agreement has impacted jobs in one way or another.[75] In fact, a persuasion point initially used by those in favor of NAFTA was that the agreement would create a significant number of jobs.[76] In contrast, those opposed to the agreement alleged that NAFTA would cause the United States to lose jobs to Mexico.[77] Either way, labor concerns comprised a significant portion of the original NAFTA debate.

In sum, none of the reasons proffered by those who oppose labor provisions within trade agreements are persuasive. Benefits to society's overall social welfare do not automatically flow from the economic growth spurred by free trade; the benefits of free trade do not necessarily trickle down. Labor provisions do not impact upon national sovereignty any more than any other provisions contained within international trade agreements. Finally, labor provisions cannot be rejected as simply social legislation having no place within trade agreements. As has been discussed, labor impacts trade and trade impacts labor; denying this interdependency ignores a fundamental reality. The exclusion of labor from international trade agreements is a policy choice; it does not constitute a foregone conclusion.

III. LABOR PROBLEMS UNIQUELY ENCOUNTERED BY WOMEN

Beyond the obstacles encountered by traditional labor organizations, women face their own unique labor-oriented problems. While the success of labor organizations in securing protections for laborers generally would benefit many women workers, certain problems encountered by women specifically fall outside of the ambit of the concerns most traditional labor organizations have undertaken. This Part will outline two

---

70. Meloro, *supra* note 44, at 451.

71. Robert F. Housman, *The Treatment of Labor and Environmental Issues in Future Western Hemisphere Trade Liberalization Efforts*, 10 CONN. J. INT'L L. 301, 316 (1995).

72. *Id.*

73. *Id.*

74. *Id.* at 317.

75. *Id.*

76. *Clinton Signs NAFTA, With a Promise to Labor*, CHI. TRIB., Dec. 9, 1993, at 14. Clinton "predicted that the trade agreement would result in a net gain of U.S. jobs, up to 200,000 new ones by 1995." *Id.*

77. *Id.*

particular obstacles that women have faced in getting their particular needs met through trade agreements and labor organizations generally. This Part will first outline the double impact of the public/private divide on women. This public/private divide has internationally defined labor protections as being solely within the ambit of domestic concern and thus not a concern for international trade agreements. This divide has hindered women's ability to obtain serious consideration of their needs within the international arena. This differentiation has also hindered women's ability to get their concerns addressed within the domestic sphere; many labor obstacles faced by women, such as childcare and sexual harassment, have been viewed as private concerns—things to be dealt with within the family. Consequently, even within the domestic realm women's labor needs have gone unmet. This Part will also outline some of the obstacles that women have faced in obtaining consideration of their specific needs within labor organizations, both domestically and internationally.

Prior to delving into a discussion of unique labor concerns faced by women, a caveat must be set out. The concerns faced by women are diverse. It would be impossible to make an accurate sweeping statement regarding women's labor needs within in the United States itself; it would be even more absurd to pretend that all women within the Western Hemisphere have identical labor needs.[78] However, there are many similarities in the conditions that women face universally, whether by virtue of biology or by virtue of social construct. It is these similarities that this Note attempts to address.

A. The "Public/Private Divide"

The main obstacle that women have encountered in obtaining consideration of their specific labor needs within international trade agreements has been a result of what has been termed the "public/private divide."[79] The problems associated with the "public/private divide" are manifested in two primary forms.[80] The first form this divide takes is that the international realm and the domestic realm are viewed as two separate and distinct areas of law.[81] That which occurs in the international realm is considered public, meaning open for discussion and debate among countries,[82] while that which occurs within the domestic realm is considered private, meaning not an appropriate area for international action.[83] This distinction presents a problem similar to that faced by labor organizations generally; labor and gender issues are viewed as matters of domestic concern.[84] Many involved with international trade view trade agreements as an inappropriate forum within which to address what they term domestic

---

78. Doris Elisabeth Buss, *Going Global: Feminist Theory, International Law, and the Public/Private Divide*, *in* CHALLENGING THE PUBLIC/PRIVATE DIVIDE: FEMINISM, LAW, AND PUBLIC POLICY 360, 360-61 (Susan B. Boyd ed., 1997); CYNTHIA ENLOE, BANANAS, BEACHES, AND BASES: MAKING FEMINIST SENSE OF INTERNATIONAL POLITICS 175-76 (updated ed., 2000).

79. Buss, *supra* note 78, at 364-73.

80. *Id.* at 364-65.

81. *Id.*

82. *Id.*

83. *Id.*

84. *See supra* text accompanying notes 68-77.

social legislation.[85] Thus, it has been difficult for both women's and labor organizations to garner a hearing for their concerns within an international trade environment. However, as was discussed above, the rationales for considering labor concerns as matters of social legislation unrelated to trade are unconvincing.[86]

Second, the "public/private divide" has taken root in the lives of individuals. Countries across the globe have drawn a distinction between the public world—which includes business, politics, economics, and the law—and the private world, consisting of home and family.[87] Historically, men's work has been defined as that which occurs within the public sphere (e.g., business, politics, economics, and the law) and women's work has been defined as that which occurs within the private sphere (e.g., home and family).[88] While these distinctions are slowly being dismantled, relics of their existence continue to plague women's ability to influence international trade.

Women have historically been excluded from international law, and they continue to remain on its margins.[89] International law has been viewed as a public sphere in which only men were capable of participating.[90] Men have constructed international law and defined its parameters.[91] Consequently, as women have begun to act within the international sphere, they have been forced to challenge the parameters as they have been defined.[92]

Additionally, this "public/private divide" has had implications for how the labor marketplace itself has been defined.[93] Where international agreements have acknowledged labor as deserving of protection, only labor taking place within the "public sphere" has been acknowledged as meriting recognition and, to an extent, regulation.[94] Work performed within the home has been termed "private" and, thus, neither recognized nor regulated.[95] Much of the work that women perform falls within this private sphere, either because it consists of unpaid chores performed within the home, or because it constitutes paid labor performed within the home.[96] Because women make up the majority of those who perform this private sphere work, there exists an extremely inadequate picture of women's economic contributions throughout the World.[97]

The implications of this omission are large for women as a whole. Despite women's increased participation within the public sphere over the course of the past few

---

85. Meloro, *supra* note 44, at 450-51.

86. *See supra* text accompanying notes 71-76.

87. Susan B. Boyd, *Challenging the Public/Private Divide: An Overview*, *in* CHALLENGING THE PUBLIC/PRIVATE DIVIDE: FEMINISM, LAW, AND PUBLIC POLICY 3, 8-10 (Susan B. Boyd ed., 1997).

88. *Id.*

89. *See* ENLOE, *supra* note 78, at 7-11.

90. *Id.* at 4.

91. *Id.*

92. *See id.*

93. Boyd, *supra* note 87, at 9.

94. *Id.*

95. *Id.*

96. Kathryn B. Ward & Jean Larson Pyle, *Gender, Industrialization, Transnational Corporations, and Development: An Overview of Trends and Patterns*, *in* WOMEN IN THE LATIN AMERICAN DEVELOPMENT PROCESS 37, 46 (Christine E. Bose & Edna Acosta-Belén eds., 1995).

97. *Id.*

decades, women remain responsible for the majority of the work performed within the private sphere.[98] Refusing to recognize labor performed within the home as a valuable international commodity fails to assign value to a significant portion of work for which women are responsible. Women's unpaid work within the private sphere frees capital to be used in other ways within national and international economies.[99] "As producers and consumers, women [working within the home] provide food, clothing, and energy and maintain the family in time-consuming activities."[100]

Further, the "public/private divide" has provided a rationale for failing to regulate or even recognize paid informal work that is performed within the home or private sphere. This "informal" work encompasses "subcontracted industrial and service work, retail activities (street vendors), domestic service, the sex trade, and agricultural work."[101] Women's participation within the paid informal sphere is higher internationally than their participation within the formal sphere.[102] In 1980, women made up three-quarters of the informal laborers in Chile, Brazil, and Costa Rica.[103] Within this informal sector, women's wages are only 45 to 74% of men's earnings.[104] Women often supplement their incomes earned in the formal sector through employment within the informal sector.[105] Women holding these positions report a high level of dissatisfaction with their informal employment because of "low wages, little control over the work processes, health risks, long hours, and overhead costs."[106] Despite women's significant participation within these private or informal sectors, international trade agreements continue to exclude these sectors from their labor protections, if they provide any protections at all.

B. Underrepresentation Within Labor Organizations

Women have traditionally been underrepresented within union and other labor organizations.[107] This circumstance has served as an additional barrier hindering women's ability to obtain recognition for their specific labor needs within international agreements. Additionally, women's concerns have not always received a high priority on the agenda of labor organizations.[108] Male laborers are not always supportive of women's demands.[109] Some male laborers have viewed women's calls for protection from sexual harassment and for maternity leave as "irrelevant to 'serious' trade union activity."[110]

---

98. *Id.* at 47.
99. Grimm, *supra* note 13, at 193.
100. Ward & Pyle, *supra* note 96, at 50-51.
101. *Id.* at 47.
102. *Id.* at 48.
103. *Id.*
104. *Id.*
105. *Id.* at 47.
106. *Id.* at 50.
107. *See* Erika Gottfried, Note, *MERCOSUR: A Tool to Further Women's Rights in the Member Nations*, 25 FORDHAM URB. L.J. 923, 927 (1998).
108. ENLOE, *supra* note 78, at 166.
109. *Id.*
110. *Id.*

Further, women have not always been receptive to participation within unions.[111] As the members of households generally responsible for the work within the home, women who are employed outside the home may not have extra time to participate in union activity.[112] This double shift of work prevents women from engaging in union activity. Additionally, many women, especially those who serve as the primary wage earners within their home, do not want to upset their employers by participating in union activity.[113] Finally, it is possible that because of the lack of receptivity to women's concerns discussed above,[114] women have not felt comfortable participating in traditional labor organizations.

This Part has outlined the ways in which the public/private divide and the underrepresentation within domestic and international labor organizations have impacted the ability of women to influence international trade agreements. The following Part demonstrates the repercussions that result from excluding the voice of women's labor from international trade negotiations.

IV. NAFTA & NAALC

As the first international trade agreement in which the United States agreed to include certain provisions for labor protections, NAFTA and its side agreement, NAALC, were significant achievements for labor organizations within the member countries.[115] As was discussed in the preceding Part, however, the voice of women's labor has struggled to find a hearing within the international trade community. Consequently, the labor provisions contained within NAFTA and NAALC did not sufficiently address many of the needs faced specifically by women laborers.

This Part will first provide an overview of the conditions under which the member countries passed both NAFTA and its side agreement, NAALC. This Part will then outline the substantive and procedural provisions contained within NAFTA and NAALC. Finally, this Part will address the ways in which NAFTA and NAALC failed to adequately offer protection for many of women's specific labor needs.

A. Background

The passage of NAFTA was a monumental achievement, not only because it created the World's largest continental free trade zone, but also because it was the first international trade agreement in which the United States included labor provisions.[116] Initially, however, the administration of the senior President George Bush argued that NAFTA did not need labor provisions.[117] In 1991, as NAFTA negotiations were occurring, then President Bush asserted that Mexico had labor standards comparable to

---

111. Grimm, *supra* note 13, at 207-08.

112. *Id.* (specifically addressing the situation of Mexican women).

113. *Id.* at 208.

114. *See supra* text accompanying notes 108-10.

115. Grimm, *supra* note 13, at 180-81.

116. *Id.*

117. Joel Solomon, *Trading Away Rights: The Unfulfilled Promise of NAFTA's Labor Side Agreement*, 13 HUM. RTS. WATCH 2(B), Apr. 2001, at 1, 14, *available at* http://www.hrw.org/reports/2001/nafta/nafta0401-04.htm#P405_58779 (last visited Feb. 3, 2003).

those of the United States and Canada.[118] President Bush contended that what was lacking in Mexico were the budgetary resources necessary to allow the efficient enforcement of the labor standards that Mexico did have.[119] The Bush Administration maintained that NAFTA itself would generate the economic resources that Mexico would need in order to effectively enforce its labor laws.[120]

Labor organizations within the United States were not as optimistic as the Bush Administration. They were concerned that slack labor standards would both harm Mexican workers and, with the open borders created by NAFTA, cause American businesses to relocate to Mexico where labor costs would be cheaper.[121] NAFTA became a political issue when the 1992 presidential election coincided with the NAFTA negotiations.[122] With labor organizations as a core Democratic constituency, Bill Clinton, the Democratic presidential candidate, promised to support NAFTA as long as it contained side agreements on labor rights and the environment.[123]

President Clinton began negotiations with Canada and Mexico for a labor side agreement soon after taking office.[124] Labor organizations remained skeptical about whether a side agreement would be enough to sufficiently protect labor needs, and, in an effort to garner the support needed to ensure NAFTA's passage in Congress, President Clinton solicited assistance from business leaders.[125] Business leaders refused to make any type of pledge promising not to relocate their businesses to Mexico, where labor standards were more lax, if NAFTA were passed.[126] Instead, a group of 2700 companies undertook a massive public relations campaign in an attempt to assure the public that NAFTA would not benefit special interests at the expense of America's workers.[127]

The campaign undertaken by business leaders proved successful and the United States Congress ratified NAFTA in 1993.[128] NAFTA became operative on January 1, 1994.[129] The side agreement regarding labor, NAALC, also became effective on January 1, 1994.[130]

B. NAALC Substance and Procedure

The United States, Mexico, and Canada were unified in their opposition against any labor side agreement that would hinder their "sovereign right to control [their] individual domestic labor laws."[131] Consequently, the language contained within

---

118. *Id.* (quoting President George Herbert Walker Bush).
119. *Id.* (quoting President George Herbert Walker Bush).
120. *Id.*
121. Taylor, *supra* note 14, at 407.
122. Solomon, *supra* note 117, at 14-15.
123. *Id.* at 14.
124. *Id.* at 15.
125. Taylor, *supra* note 14, at 406.
126. *Id.*
127. *Id.* at 406-07.
128. Grimm, *supra* note 13, at 180 n.1.
129. *Id.* at 180.
130. *Id.* at 180 n.3.
131. Taylor, *supra* note 14, at 415.

NAALC is purposely vague.[132] NAALC did not establish uniform labor standards among the three member countries.[133] Nor did it require the strengthening of any of the countries' current labor standards.[134] Instead, it merely required that each country enforce the labor laws that it already had in place.[135] Assuring each member country of its sovereign right to create and maintain its own labor laws, Article 2 of NAALC states,

> [a]ffirming full respect for each Party's constitution, and recognizing the right of each Party to establish its own domestic labor standards, and to adopt or modify accordingly its labor laws and regulations, each Party shall ensure that its labor laws and regulations provide for high labor standards, consistent with high quality and productive workplaces, and shall continue to strive to improve those standards in that light.[136]

In an effort to accomplish this goal, NAALC set out eleven labor rights norms, which it divided into a hierarchy of three tiers.[137] The actions allowed for enforcement under NAALC depend upon the tier in which a given norm falls.[138] The first tier requires labor protections for children, minimum employment standards, including minimum wage, and the prevention of occupational injuries and illnesses.[139] The second tier requires a prohibition of forced labor, compensation in cases of occupational injuries and illnesses, protection of migrant labor, elimination of employment discrimination, and equal pay for men and women.[140] The third tier requires freedom of association, the right to bargain collectively, and the right to strike.[141]

If one member country believes that another is not fulfilling its commitment as laid out within NAALC, the recourse available is dependent upon the tier in which the allegedly violated norm falls.[142] Each country maintains what is called a National Administrative Office ("NAO").[143] Complaints to be considered by the NAO can either be presented by interested nongovernmental organizations ("NGOs") or the complaint may be instigated by the NAO itself.[144] All allegations of NAALC violations are brought to the NAO of the country in which the complainant resides.[145] The NAO maintains discretion to determine if the complaint merits review.[146] If the complaint

---

132. *Id.*
133. *Id.*
134. *Id.*
135. Solomon, *supra* note 117, at 15.
136. NAALC, *supra* note 7, art. 2, 32 I.L.M. at 1503.
137. Solomon, *supra* note 117, at vii (explaining the NAALC's division of labor rights norms into three tiers); *see also* NAALC, *supra* note 7, Annex 1, 32 I.L.M. at 1515.
138. Solomon, *supra* note 117, at viii.
139. *Id.*
140. *Id.*
141. *Id.*
142. *Id.*
143. Taylor, *supra* note 14, at 417.
144. Grimm, *supra* note 13, at 195.
145. Taylor, *supra* note 14, at 417.
146. *Id.*

merits review, the NAO begins consultations with the accused NAALC member.[147] These consultations take the form of government to government talks, and the parties can agree to a plan that will address the nonenforcement complaint.[148] The NAO complaint procedure can result only in cooperation among the NAALC member nations and a recommendation by the NAO and its government regarding avenues through which to remedy the violation.[149] Any agreement reached between the parties at this level of the NAALC complaint process is *not* binding.[150] For the labor norms contained within the third tier, this procedure constitutes the extent of the complaint process.[151] Consequently, if any NAALC member government prohibits or hinders freedom of association, the right to organize, the right to bargain collectively, or the right to strike, the sole recourse under NAALC is to request that the NAO of the complainant's home country undertake consultations with the violating country.

For alleged violations of a right contained in NAALC's first or second tier, if the consultations between the NAO and the violating country are not successful, then the complaining party can request the creation of an Evaluation Committee of Experts ("ECE").[152] Upon review, if the ECE finds that a violation of NAALC's first or second tier norms has occurred, the sole remedy obtainable from the ECE is the issuance of "non-adversarial and non-binding recommendations on the issue."[153] For the labor norms contained within the second tier, this procedure constitutes the extent of the complaint process.[154] Consequently, if any NAALC member government violates the prohibition against forced labor, fails to compensate victims in cases of occupational injuries and illnesses, fails to protect migrant labor, *fails to eliminate employment discrimination, or fails to assure equal pay for men and women*, the sole recourse under NAALC is the issuance by an ECE of a nonadversarial and nonbinding recommendation on the issue.

If the complaint concerns a norm contained within the first tier and the ECE fails to produce results, then the matter can be submitted to the Council of Ministers for mediation.[155] If the Council of Ministers is unsuccessful in mediating a resolution to the matter, then the complaint can be submitted to an arbitration panel.[156] If the arbitration panel finds that a NAALC member nation has violated one of the norms contained within the first tier of rights, then the arbitration panel may recommend an action plan that may include sanctions.[157] However, the arbitration panel would take such a drastic action only if the panel found a "persistent pattern of failure" to enforce the first tier labor norms.[158]

---

147. *Id.*

148. Solomon, *supra* note 117, at viii.

149. Grimm, *supra* note 13, at 194.

150. Taylor, *supra* note 14, at 417.

151. *Id.*

152. Taylor, *supra* note 14, at 417.

153. *Id.* (quoting Joel Solomon, *Mexico, Labor Rights and NAFTA*, 8 HUM. RTS. WATCH/AMS 2 (1996)).

154. *Id.*

155. Grimm, *supra* note 13, at 196.

156. *Id.*

157. *Id.*

158. *Id.*

In sum, throughout the NAALC process, only the final arbitration panel has the right to impose sanctions upon a violating government and the panel would do so only if the violating member were found to have violated a first tier norm consistently. Consequently, sanctions may be assigned to a violating country under NAALC, only if the country is found to have consistently failed to provide labor protections for children; consistently failed to implement minimum employment standards, such as a minimum wage; or consistently failed to enact and enforce laws that would prevent occupational injuries and illnesses.

C. NAFTA & NAALC: Repercussions for Women

NAALC constitutes a victory of sorts for labor organizations and women within the international trade agreement sphere because, as has been noted, NAALC is the first international trade agreement in which the United States has agreed to include labor protections.[159] Despite their inclusion, however, the NAALC labor provisions are far from encompassing all that is required to ensure that women's labor needs are protected.

There are a number of areas in which NAFTA and NAALC could serve to more fully protect the needs of women laborers. Importantly, NAALC does not establish uniform standards among the three member nations.[160] The strength of the NAALC provisions depends upon the strength of the laws within the individual member nations. Therefore, the protections afforded by NAALC are worthless if the member nation does not maintain laws that effectively protect against an enumerated NAALC concern.[161] For example, Mexican law clearly forbids pregnancy discrimination against *current* employees, but it is not clear whether Mexican law prohibits pregnancy discrimination in *hiring* decisions.[162] While NAALC prohibits employment discrimination, it does not define employment discrimination.[163] Defining employment discrimination is left to the individual member nations. Consequently, because it is unclear whether Mexican law prohibits discrimination against pregnant women in hiring decisions, Mexican women may not be protected against this form of discrimination.

Further, there is no independent oversight body responsible for enforcing the NAALC provisions.[164] When allegations of NAALC violations are presented, the individual NAOs have complete discretion to decide which complaints have merit and how meritorious cases should be handled.[165] Predictably, considerations relevant to bilateral relations between countries are likely to impact any decision to take action.[166] Prior to instigating a claim, NAOs and their governments are likely to consider the impact of such a decision upon policies regarding not only trade itself, but also

---

159. *Id.* at 181.
160. *Id.* at 198.
161. *Id.* at 220-21.
162. *Id.*
163. *See* NAALC, *supra* note 7, Annex 1, 32 I.L.M. at 1515.
164. Solomon, *supra* note 117, at 2.
165. *Id.*
166. *Id.*

potential implications for immigration and narcotics policies.[167] If the NAO determines that a claim is not worth pursuing, NAALC provides individuals with no further recourse for vindicating their rights.[168] Significantly, while complaints to be considered by the individual NAOs may be brought by NGOs or instigated by the NAOs themselves, no NAO has chosen to undertake an investigation of a fellow member nation upon its own initiative.[169]

Additionally, while NAALC sets out eleven recognized workers' rights upon which the member countries must focus their concern, the agreement allows sanctions for the violation of only three of the included rights.[170] Negotiations among the member countries constitute the only available recourse for a violation of any of the other eight rights.[171] This establishment of a hierarchy of rights creates the appearance that certain rights are arbitrarily more important than others—the failure by member nations to establish minimum employment standards, such as minimum wages, is sanctionable, while the failure to prevent forced labor merits only consultations among member governments.[172]

While NAALC calls for the elimination of employment discrimination and equal pay for men and women, it places these rights within the second tier of labor rights, meaning that the greatest remedy available as a consequence of a violation of these rights is an intergovernmental consultation.[173] Sanctions are not available for a violation of these rights.[174] The refusal of the governments to allow sanctions for a failure to consistently prevent employment discrimination or a consistent failure to guarantee equal pay among the sexes indicates a view among member nations that the prevention of gender discrimination is not a top priority.[175]

Furthermore, neither NAFTA nor NAALC recognizes work within the "domestic sphere as a commodity that contributes to international trade."[176] As discussed above, work performed within the domestic sphere is of vital importance internationally; women's unpaid work within the private sphere frees capital to be used in other ways within national and international economies.[177] Refusing to recognize labor performed within the home as a valuable international commodity fails to assign value to a significant portion of work for which women are responsible.[178] The failure to recognize the labor that occurs within the domestic sphere constitutes a policy choice reflecting the belief that domestic or private sphere labor does not merit official recognition.[179]

---

167. *Id.*
168. *Id.*
169. Grimm, *supra* note 13, at 211-12.
170. Solomon, *supra* note 117, at viii.
171. *Id.*
172. *Id.*
173. *Id.*
174. *Id.*
175. Grimm, *supra* note 13, at 197-98.
176. *Id.* at 192.
177. *See supra* text accompanying notes 98-106.
178. *Id.*
179. Grimm, *supra* note 13, at 193.

Additionally, only the member governments are bound by NAALC.[180] The agreement does not apply to private entities such as corporations.[181] Hence, under NAALC, individual corporations are free to violate labor rights; it remains up to the member governments to ensure that compliance with NAALC occurs.[182] That an international trade agreement binds only member governments, not private entities, is not unusual. However, what is unique about NAFTA and NAALC is that while they require nothing from private corporations, NAFTA entitles corporations to directly bring binding arbitration proceedings against NAFTA member governments when the private corporations' rights under NAFTA have been violated.[183] But individuals are not entitled to bring these binding arbitration proceedings against governments directly under NAALC.[184] In fact, NAALC does not provide specific guarantees for any individual laborer.[185] NAALC applies only if it is demonstrated that a member nation has repeatedly violated a norm contained within the agreement.[186]

Finally, NAALC fails to secure rights that most women consider essential to their ability to work outside the home.[187] NAALC does not guarantee parental leave in cases of a child's sickness or a child's birth.[188] NAALC does not provide a right to affordable childcare.[189] NAALC fails to make any assurance of either fair representation or fair treatment of women within labor unions.[190] Further, NAALC does not explicitly prohibit sexual harassment in the workplace.[191]

This Part demonstrates that while the inclusion of labor provisions within an international trade agreement constitutes a significant achievement for laborers, NAFTA and NAALC have not ultimately granted laborers, and women laborers in particular, the tools with which to adequately protect themselves from labor abuses and to obtain fair treatment. Understanding the inadequacies of NAFTA and NAALC will enable women's groups and labor groups to advocate for changes to future trade agreements that will offer them the protection needed for adequate and equal working conditions. The following Part will suggest ways in which future trade agreements, and the FTAA in particular, can account for women's specific labor needs to ensure that women have access to equal working conditions in this increasingly interconnected and globalized world.

V. RECOMMENDATIONS FOR THE FTAA

As discussed above, all countries of the Western Hemisphere (except Cuba) are

---

180. *Id.* at 194.

181. *Id.*

182. *Id.*

183. Lawrence L. Herman, *Settlement of International Trade Disputes—Challenges to Sovereignty—A Canadian Perspective*, 24 CAN.-U.S. L.J. 121, 123 (1998).

184. Solomon, *supra* note 117, at 2.

185. *Id.*

186. *Id.*

187. Grimm, *supra* note 13, at 197.

188. *Id.*

189. *Id.*

190. *Id.*

191. *Id.*

currently negotiating the FTAA. Labor and human rights groups have become vocal opponents of the FTAA.[192] These groups believe that the FTAA will "empower corporations to constrain governments [sic] ability to set standards for public health and safety, to safeguard the rights of their workers, and to ensure that corporations do not pollute the communities in which they operate."[193] In essence, the FTAA grants corporations the ability to move their operations more freely within the negotiated trade area and allows them to sue the host government when any right granted within the trade agreement has been violated. Opponents of the FTAA fear that the agreement would provide corporations with the increased ability to impact the lives of member nations' laborers without offering the laborers any form of protection. As has been demonstrated, the terms negotiated within the trade agreements have a significant impact upon laborers within the member countries. Yet, despite these realities, labor representatives have been excluded from the FTAA negotiations.[194]

The proposed FTAA represents an exciting opportunity to rectify the problems contained within NAFTA. It stands as an opportunity to incorporate standards that will truly work to benefit the lives of working women. Women's organizations and labor organizations must make known to the international community that their inclusion at the negotiating table is critical to the successful implementation of international trade agreements. These groups must demonstrate that their exclusion from negotiations to date has been a policy choice, not a necessity. If women's groups and labor groups are allowed access to trade negotiations, the FTAA could likely be a useful tool for improvement in the lives of working women.

Women's and labor organizations must be allowed access to the FTAA negotiating table. Women have been denied this access in the past.[195] A variety of *corporate* committees have been established and are allowed to provide direction to the agreement negotiators.[196] While a "Committee of Government Representatives on Civil Society" has been established to represent the views of "civil society,"[197] labor organizations and women's groups should be allowed their own independent committee. Including labor needs within the heading of "civil society" fails to recognize the intricate role that labor plays within trade. Trade and labor are interdependent; labor concerns must be addressed in any effort to create a well-balanced international trade agreement.

In contrast to NAFTA and NAALC, provisions for labor should be placed within the main text of the FTAA. Including labor provisions within the main text would serve as a confirmation that labor provisions are to be taken seriously. Fair labor practices would be as important within the agreement as fair trade practices. No longer would it be technically compliant with major trade agreements to violate labor rights in an effort to gain a trade advantage.

Under the FTAA, individuals should be granted rights similar to those granted to private corporations; individuals should be permitted to sue governments directly. Under NAFTA, corporations are permitted to sue governments directly when

192. Wright, *supra* note 29.
193. Global Exchange, *supra* note 26.
194. *Id.*
195. *Id.*
196. *Id.*
197. *Id.*

governments violate a NAFTA provision in a way that causes harm to the corporation.[198] Similarly, individuals deprived of the labor rights spelled out within the FTAA should also be permitted to sue member governments directly. Bypassing the NAO complaint procedure and allowing individual persons to sue violating governments—governments refusing to enact or enforce the required protective provisions—would ensure that FTAA labor violations are taken seriously.

The FTAA should set uniform standards for workers rights among member nations, in addition to the protections afforded by each country's domestic laws. However, the needs of laborers among all member nations would not be identical and this reality would need to be reflected as the provisions are drafted. Further, unlike the undefined labor norms contained within NAALC, the uniform standards should provide concrete definitions for their terms. This clarification would avoid the definitional problems that have occurred under NAALC, such as questions as to whether a prohibition against employment discrimination means only discrimination against current employees, or whether discrimination is prohibited in hiring decisions as well.

Included within these uniform labor standards should be provisions intended to protect the rights that most women consider essential to their ability to work outside the home. These include parental leave for both parents in cases of a child's sickness or a child's birth, access to affordable childcare, and an assurance of either fair representation or fair treatment of women within labor unions. Further, the FTAA must explicitly prohibit sexual harassment in the workplace.

Finally, an alteration in the traditional definition of labor itself must occur. It would be supremely idealistic to envision an international trade agreement in which work performed within the home were valued equally with that of labor performed in the public sector. However, the FTAA should at a *minimum* recognize and protect paid labor performed within the private sphere, such as "subcontracted industrial and service work, retail activities (street vendors), domestic service, the sex trade, and agricultural work."[199] Women's participation within the paid informal sphere is higher internationally than their participation within the formal sphere.[200] Women holding these positions report a high level of dissatisfaction with their informal employment because of "low wages, little control over the work processes, health risks, long hours, and overhead costs."[201] Recognition and regulation of this aspect of international labor would translate into a significant benefit in women's lives.

CONCLUSION

The FTAA presents a unique opportunity to account for and to rectify NAFTA's failures. While NAFTA was historic in that it was the first international trade agreement in which the United States participated that included provisions for labor, it has not been fully effective in securing labor rights within the member nations. Many of women's unique labor needs were ignored altogether. Recognizing where the NAFTA agreement failed women laborers will allow women to more effectively lobby to address their concerns with the FTAA. By incorporating the above

198. Herman, *supra* note 183, at 123.
199. Ward & Pyle, *supra* note 96, at 47.
200. *Id.* at 48.
201. *Id.* at 50.

recommendations, the FTAA could serve as an effective tool in protecting the labor needs of women.