



**Solidaridad**

**DEFEND TRADE  
UNION RIGHTS IN MEXICO**

**BACKGROUND INFORMATION ON  
DEMANDS**

**GLOBAL  
DAYS OF ACTION**

**14-19 FEBRUARY 2011**



In August 2010 the International Transport Workers' Federation closed its 42nd Congress with a march through Mexico City in support of Mexican workers' rights.  
PHOTO: Mac Urata/ITF



Over the last two decades, the income of Mexican workers has lost more than half of its purchasing power and the Mexican government estimates that 40 million people live in poverty and 25 million in extreme poverty.

Well before the North American Free Trade Agreement was signed in 1994 the value of Mexican wages were stagnating. In the 1970s Mexican wages were a quarter of those in the U.S. Even with the decline in U.S. wages, Mexican wages are now an eighth and in some sectors as low as one-fifteenth as compared with the U.S.

NAFTA's impact on Mexican jobs has been devastating and the more recent promises of decent jobs remain unfulfilled for Mexican workers. Instead of creating more jobs and guaranteeing workers' rights, the Mexican government is intent on extinguishing the democratic unions that do exist, particularly the few unions that are successful in gaining better wages and a higher standard of living for their members.

Workers and trade unions do have legal and social rights in Mexico and the state is supposed to honour and protect them. In reality the Mexican government has made it clear that it will show impunity towards others and itself in the use of repression and violence to keep wages low and deny workers their rights.

There has been a serious escalation in the systematic and brazen violation of the trade union rights of Mexican workers over the last five years.

# TRADE UNION RIGHTS IN MEXICO

**There has been a serious escalation in the systematic and brazen violation of the trade union rights of Mexican workers over the last five years. The rights to recognition of union leaders, to collective bargaining, to strike and to stability of employment, all of which are enshrined in national and international law, are under attack.**

This is taking place with the tolerance, complicity and, on many occasions, the direct action of the Mexican state through different levels of authority. Actions range from permitting the unpunished presence of hired thugs in the workplace and in the Conciliation and Arbitration Boards, to the direct presence of the federal police and military troops occupying workplaces, as well as illegal and unconstitutional resolutions by all levels of federal and state government in order to annul freedom of association.

The Mexican government reserves to itself the ability to validate, by a discretionary mechanism, the registration of unions. Democratically organized workers are forced to wait in limbo indefinitely before the state grants them legal recognition to become a trade union. The state retains the same ability to grant recognition (known as “toma de nota”) of a union’s leadership, resulting in frequent cases of government interference in union autonomy.

The government supports a system of employer-dominated unions, known as “protection” unions, to prevent workers from democratically choosing their representatives. Workers who try to organize independently normally face intimidation, violence and retaliation by their employers.

Workers’ attempts to hold elections that would establish their right to administer collective bargaining agreements through their authentic organizations are permanently blocked and subjected to multiple requirements, while employers sign agreements with company controlled unions, often without any knowledge of the workers covered by the agreement.

Mexican workers can not freely exercise their right to strike. When trying to gain legal permission to strike, unions face multiple barriers and requirements; once a strike begins, the labour authorities reserve the right to declare the strike nonexistent, because it is judged that it does not obey the legal prerequisites, which are interpreted arbitrarily.

The trade union movement in Mexico is dominated by unions that largely serve government and corporate interests and are failing to deliver any real returns to members. The unions that do operate democratically and independently, delivering real benefits to members through increased wages and improved working conditions, have been targeted for destruction by the Mexican government and its supporters.

**Independent unions under attack include:**

- **The 77 year old National Miners’ and Metalworkers’ Union of Mexico (SNTMMSRM, Mexican Miners’ Union or Los Mineros) has been under attack from the national government, together with the mining giant Grupo México, since 2006. The attacks have ranged from not recognizing the democratically elected leadership, freezing the union’s financial accounts, imprisoning the union’s leaders on false charges, attempting to eliminate the union’s legal right to strike, to the use of police and military force in violent attacks on workers resulting in the deaths of four union activists and injury to many more.**
- **In 2009, the Mexican government commenced its most serious attack on the 95 year old Mexican Electrical Workers’ Union (SME), including dissolving the country’s second largest public electrical power distributor thereby sacking all 44,000 employees.**
- **Having finally achieved recognition in 2009, the UNTyPP, representing technical and professional employees of PEMEX, Mexico’s state-owned petroleum company, came under attack, including the dismissal of the entire leadership.**
- **The National Union of General Tyre Workers of Mexico (SNTGTM) has faced strong anti-union efforts by Continental Tire, which has worked with the labour authorities to attempt to impose a company-dominated union.**
- **Workers at call centers run by Atento (owned by Telefónica) faced violent repression by company goons and police in July when they attempted to kick out the company-imposed union and affiliate to the Mexican Telephone Workers’ Union (STRM).**
- **The union (SUTUACM) at the Autonomous University of Mexico City is facing constant aggression from authorities and the university administration refuses to recognize the union.**



Members of the Mexican Miners’ Union in Lázaro Cárdenas hold a tribute rally in April 2010 to remember Héctor Álvarez Gómez and Mario Alberto Castillo Rodríguez who were killed in 2006 during a demonstration organized to defend the miners’ union.

# DAYS OF ACTION DEMANDS

Trade unions around the world are calling on the Mexican government to:

## 1. Hold employer and government officials accountable for the Pasta de Conchos mine explosion that killed 65 miners on February 19, 2006.

There must be an independent, professional investigation of the causes of the explosion. The persons responsible should be criminally prosecuted. The government must pay fair compensation to the families of the victims and recover the 63 bodies that remain in the mine for proper funerals. Mexico must take action to improve mine health and safety in compliance with ILO Conventions.

### BACKGROUND

In the early hours of February 19, 2006 a fireball exploded in the bowels of Grupo México's Pasta de Conchos coal mine in the northern state of Coahuila, triggering cave-ins all along the 2.8 km number eight shaft and trapping 65 miners hundreds of meters below the earth.

Rescue efforts were stopped after only five days, when families were only a few metres away from their trapped loved ones. As Grupo México and the Mexican government halted rescue efforts, disconnecting the electricity making any continuation of the search impossible, they also made it impossible to carry out a proper investigation into the cause of the mine collapse, believed by many to be illegal safety conditions in the mine.

Almost five years later, the bodies of 63 of the 65 miners that died at Pasta de Conchos remain buried and the Mexican government has failed to investigate or prosecute those responsible. Their widows and families have never been properly compensated.



Some of the widows who lost their husbands in the Pasta de Conchos mine disaster and have yet to see justice done. PHOTO: IMF

## 2. Abolish systemic violations of workers' freedom of association, including employer-dominated "protection contracts" and interference in union elections.

The government must eliminate the "toma de nota", which requires that the labour authorities approve the results of union elections before they are given effect. The elected leadership of the Mexican Miners' Union must be immediately recognized.

The practice of employer-dominated "protection contracts" must be ended so that workers can freely choose to be represented by a union of their choice without fear of intimidation or reprisal. Workers must have the right to receive copies of their collective bargaining agreements.

### BACKGROUND

#### The government's use of "toma de nota" violates union autonomy

Just two days prior to the mine explosion at Pasta de Conchos on February 19, 2006, the Mexican Labour Secretary withdrew legal recognition, or "toma de nota", to remove Napoleón Gómez Urrutia from his elected position as the General Secretary of the Mexican Miners' Union and all 13 members of the union's Executive Committee, appointing Elías Morales Hernández as the new leader based on falsified documents and bogus accusations of corruption.

This event, which did not become public until 11 days later, marked the beginning of the Mexican government's direct attack on the Mexican Miners' Union. After the International Metalworkers' Federation filed a complaint with the International Labour Organization's Committee on Freedom of Association, a Mexican federal court on April 11, 2007 ordered the Labour Secretary to recognize Napoleón Gómez Urrutia as General Secretary of the union.

Almost five years later, the bodies of 63 of the 65 miners that died at Pasta de Conchos remain buried and the Mexican government has failed to investigate or prosecute those responsible.

In June 2008, the ILO Committee on Freedom of Association found that “the acknowledgement or registration of the new executive committee by the authorities [thereby displacing the duly elected General Secretary Napoleón Gómez Urrutia], amounts to conduct that is not compatible with Article 3 of Convention No. 87 which establishes the right of workers to elect their leaders in full freedom.”

Napoleón Gómez was re-elected to serve another term by a Convention of the Mexican Miners' Union in May 2008. On June 24, 2008, the Mexican Labour Secretary once again denied the “toma de nota” to Gómez. The union appealed, and on December 2, 2009 the Mexican Supreme Court decided to assert jurisdiction over the case and rule on it directly. As of January 2011, this ruling is pending.

The government also used the system of “toma de nota” in its attack on the Mexican Electrical Workers' Union (SME). In July 2009, the SME replaced half of its Central Committee, including the General Secretary. The union notified the Labour Secretary so that it could take note (toma de nota) of the changes in the union. With no legal justification whatsoever, the Labour Secretary refused to issue the toma de nota of the General Secretary and other elected leaders.

On October 10, 2009, by order of the Federal Executive, the federal police forcibly entered the company premises and violently removed the workers from the workplace, arbitrarily using the public force. The following day, a Presidential Decree was issued ordering the dissolution of the company and the massive illegal firing of the over 44,000 workers, with the goal of eliminating the Collective Bargaining Agreement and the union itself.

A new toma de nota was finally granted in December 2010 after negotiations between the union and the government. However, the government continues its refusal to reinstate any of the fired workers and to recognize the SME's collective bargaining agreement.

## What is a protection contract?

“Protection contracts” are bogus collective agreements that prevent democratization and collective bargaining. They are signed behind the backs of the workers by employers and intermediaries that are registered by the labour authorities and whose main objective is to prevent the emergence of genuine and representative trade unions. They also keep pay and benefits low, restrict workers' rights and ensure labour relations that are advantageous to the company.

### Characteristics of protection contracts include:

- **They are reached between employer-dominated “trade unions” and employer representatives without being discussed or approved by the majority of workers covered by the same;**
- **They are reached by illegitimate parties that are not elected democratically by a majority of the workers they claim to represent;**
- **They are administered and/or revised without reference to a majority of the workers; and**
- **In many cases, workers are unaware that a “trade union” is representing them.**

Workers who try to set up an independent trade union are often subjected to reprisals, intimidation, threats, violence, dismissal and blacklisting.

The corrupt and anti-democratic system, combined with anti-trade union management policies, make genuine unionization virtually impossible. The system perpetuates itself because trade unions are required to request official recognition from the appropriate Conciliation and Arbitration Board (JCA), which is composed of representatives of the government, employer and the existing “trade unions” that sign protection contracts. Board members have an interest in maintaining the status quo and they create many obstacles to the registration of new independent trade unions. Consequently, in practice it is impossible to replace these “protection contract” trade unions, even though they do not have the support of the workers they pretend to represent. More serious still, workers who try to set up an independent trade union are often subjected to reprisals, intimidation, threats, violence, dismissal and blacklisting.

When establishing a new enterprise, many companies conclude a protection contract with a “protection” union before the first employee is even hired, effectively preventing employees from choosing the trade union of their preference. In many cases, these “protection” unions are controlled by a corporate lawyer who has officially registered the union. These “protection” unions are a legal simulation which defraud workers of their rights and represent a real obstacle to freedom of association. While not a new phenomenon, protection contracts became prevalent with the arrival in recent times of the transnational companies and assembly (maquila) plants in the country.



Union leaders and members were violently attacked in August 2010 at a Johnson Control's factory in Puebla, Mexico during their successful, but ongoing struggle for independent and democratic union representation at the company, replacing the former “protection contract” union.

# 3.

## End the use of force—by the state or private parties—to repress workers’ legitimate demands for democratic unions, better wages and working conditions, and good health and safety conditions.

The government must immediately withdraw federal police forces from Cananea and from all workplaces.

The persons responsible for the assassination of Los Mineros members Héctor Álvarez Gómez, Mario Alberto Castillo Rodríguez, Reynaldo Hernández González, Juventino Flores Salas and FLOC (Farm Labor Organizing Committee) organizer Santiago Rafael Cruz must be brought to justice.

### BACKGROUND



Federal forces moved into Cananea on June 6, 2010 to execute arrest warrants against the union leaders of the Mexican Miners’ Union who have been on strike at the copper mine since July 2007 over massive health and safety violations in the notoriously dangerous Grupo México-owned mine. PHOTO: Maria Rosa Guayante/Mineros’ Women’s Front

### Violent repression in Cananea

Since July 30, 2007, 1,200 members of the Mexican Miners’ Union have been on strike in Cananea, Mexico, as the workers refused to work in dangerous conditions, similar to those causing the Pasta de Conchos explosion that killed 65 workers. The Mexican government and the employer, Grupo México, have tried unsuccessfully to break the strike and destroy the union. Three times the Federal Labour Board declared the strike illegal, and each time the courts overturned this declaration.

The company then asked the Labour Board for permission to fire the striking workers, arguing that the strike had rendered the mine’s machinery inoperable. Refusing to consider evidence presented by the union, the board granted Grupo México’s request. On February 11, 2010, a panel of the Mexican Supreme Court upheld this decision, effectively eliminating the right to strike in Mexico.

On June 6, 2010, more than 4,000 Mexican federal troops used force to gain control over the Cananea copper mine. The federal police used tear gas and executed arrest warrants for local union leaders. Mexican troops overtook striking miners at the gates to the mine then stormed the union hall early on June 7, using tear gas.

### Héctor Álvarez Gómez and Mario Alberto Castillo Rodríguez

The use of armed forces against workers is not new to the Mexican Miners’ Union. On April 2, 2006, The Mexican Miners’ Union went on strike in Lázaro Cárdenas, Michoacán, at the Sicartsa steel plant owned by Grupo Villacero. The strike was part of a 48-hour national strike in protest over the government’s refusal to recognize Napoleón Gómez as the union’s leader. The workers at Lázaro Cárdenas continued their strike.

On April 19 the Federal Labour Board declared the strike illegal as it was unregistered with the board and the workers had the constitutional right to 24 hours to stop the strike and return to work. Hours later, well before the 24-hour deadline, 900 federal and state police stormed the plant. Union members Héctor Álvarez Gómez, 26, and Mario Alberto Castillo Rodríguez, 22, were killed, while some 50 workers suffered bullet wounds and more than 150 people were injured.

### Reynaldo Hernández González

On August 11, 2007, at 8:30pm, 90 workers who were unjustly dismissed by Group México (a federal court had ordered their reinstatement) were heading towards La Caridad copper mine in Nacozari, Sonora, to demand their lawful right to reinstatement when several buses owned by Grupo México carrying armed individuals ambushed the workers. Reynaldo Hernández González, a miner and member of the Mexican Miners’ Union, was fatally shot in the head, according to eye witnesses. The hired thugs captured 20 miners and beat and tortured them before they were taken to the local jail and detained for 24 to 48 hours. No one has been charged in relation to these crimes.

### Juventino Flores Salas

On June 10, 2009, anti-union thugs attacked and beat members of the Miners’ Union in Fresnillo, Zacatecas, resulting in several wounded and the death of Juventino Flores Salas, a member of the Mexican Miners’ Union. Once more, no one has been charged with this crime.

### Santiago Rafael Cruz

Santiago Rafael Cruz, an organizer for the Farm Labor Organizing Committee (FLOC) was found bound and beaten to death April 9, 2007 in FLOC’s Monterrey, Mexico, office.

FLOC opened an office in Monterrey next to the U.S. Consulate there in 2005 to help members coming to North Carolina as guest workers in processing their visas, to fight corruption in the recruitment process and to develop leaders and train members. The office has been the target of break-ins with files and equipment destroyed. Cruz, 29, who worked for FLOC for more than four years in the United States, had headed up the Monterrey office for less than a month.



Thousands of members of the Mexican Miners’ Union gather at a memorial built to remember Héctor Álvarez Gómez and Mario Alberto Castillo Rodríguez were killed on April 20, 2006. PHOTO: IMF

## 4. End the campaign of political persecution against the Mexican Miner's Union and the Mexican Electrical Workers' Union.

The government must release unjustly imprisoned trade union leaders Juan Linares Montufar and Miguel Márquez Ríos, drop criminal charges against General Secretary Napoleón Gómez Urrutia and other Mineros leaders, return the funds in the unions' frozen bank accounts, and cease the political persecution of SNTMMSRM and SME.

The government must create a new public company to provide electrical power to the Mexico City region, re-hire the fired workers who are demanding reinstatement, and recognize the SME as their bargaining representative.

### BACKGROUND

#### Political persecution of the Mexican Miners' Union

The Mexican Miners' Union (SNTMMSRM or Los Mineros), established in 1934, is an independent union representing 270,000 workers primarily in the mining and steel industries that has repeatedly spoken out against unsafe workplaces, fought for wage and benefits improvements, and protested business-driven labour reforms in defence of workers' rights and interests.

In February 2006, the Mexican government, in collusion with the country's most powerful mining company, Grupo México, commenced its attack on the union by withdrawing legal recognition of the union's elected General Secretary, Napoleón Gómez Urrutia and its Executive Committee and seized the funds and froze the union's and Gómez' bank accounts.

The grounds for removing the union's leadership were sham charges made against Napoleón Gómez and other members of the union, including Juan Linares - the President of the union's Oversight and Justice Council - in relation to the transfer of funds from a union-controlled trust fund to the union.

The trust was created in 1988 as part of negotiations around the sale of a number of state-owned mines to Germán Larrea, the current owner of mining giant Grupo México. As part of the privatization negotiations, five per cent of the shares of the companies were to be placed in a trust for the benefit of the Mexican Miners' Union. In a 1990 ruling, the First Commercial Court in Mexico City confirmed that the union was the beneficiary of the trust. Linares was one of three trustees named by the union to administer the trust.

Los Mineros fought a 15-year legal and industrial action struggle to make the Larrea companies pay the agreed shares into the trust. Agreement was reached on October 2, 2004, by which time the five per cent share was worth approximately US\$55 million. In February 2005 the union decided to terminate the trust and transfer the money to a bank account of the union.

In 2006 the Federal Attorney General filed criminal charges against Gómez, Linares and other union officials in federal and state courts. All of the charges are based on the argument that the union did not have the right to terminate the trust because the trust existed for the benefit of the workers, not the union. All of the state and federal courts that have reviewed these charges have concluded that they are groundless and have dismissed them. The government appealed the dismissals, but has lost all of the appeals but one, which is still awaiting a decision.

Mexican Miners' Union official Juan Linares has been imprisoned since December 2008.

Despite the union's legal victories, its bank accounts remain frozen and the union's democratically elected General Secretary has been forced to lead the Mexican Miners' Union from exile in Canada as the Mexican Government and Grupo México continue a sham legal process against him. Meanwhile the union official Juan Linares has been imprisoned since December 2008.

#### Attempts to destroy SME

In October 2009, President Calderón used an executive decree to dissolve the country's second largest public electrical power distributor and in doing so he also sacked the entire 44,000 workforce, and disbanded their union, the 95 year old Mexican Electrical Workers' Union (SME).

In July 2009, the SME replaced half of its Central Committee, including the General Secretary. The union notified the Labour Secretary of the changes to the Central Committee. With no legal justification whatsoever, the Labour Secretary refused to take note (toma de nota) of the General Secretary and other elected leaders, thereby denying legal recognition of the union's leadership.

On October 10, 2009, by order of the Federal Executive, the federal police forcibly entered the company premises and violently removed the workers from the workplace, arbitrarily using the public force. The following day, a Presidential Decree was issued ordering the dissolution of the company and the massive illegal firing of the over 44,000 workers, with the goal of eliminating the Collective Bargaining Agreement and the union itself, in violation of the Mexican Constitution and Conventions 87 and 98 of the International Labour Organization (ILO). While many workers accepted severance pay (thereby giving up their claim to reinstatement), more than 16,000 SME members continue to resist and demand reinstatement to their jobs under the union contract.

Protests erupted in response to this massive violation of worker and trade union rights. On the one year anniversary of the government's seizure of their workplaces thousands of members took to the streets of Mexico City on October 11, 2010 demanding the return of their jobs. As the struggle continued, SME union leader Miguel Márquez Ríos was arrested and detained on October 21, 2010 with the government claiming he had deprived people of their liberty and damaged government property.



Over 100,000 people, led by the Mexican Electrical Workers' Union (SME), marched in Mexico City to protest the sacking of 44,000 workers by the national government when it shut down the city's electrical utility.

# DEFEND TRADE UNION RIGHTS IN MEXICO

## ADDITIONAL BACKGROUND INFORMATION CAN BE FOUND AT:

Report of the International Commission for Labor Rights (ICLR) Delegation to Mexico (May 18 to 24, 2010), at:  
[http://www.laborcommission.org/Mexico\\_Report\\_Aug2010\\_ENG.pdf](http://www.laborcommission.org/Mexico_Report_Aug2010_ENG.pdf)

International Tribunal on Freedom of Association, Resolution of the Case of Mexico, May 1, 2010, at:  
<http://tribunaldelibertadsindical.blogspot.com/>

An Injury to One: The Mexican Miners' struggle for union independence, A white Paper of the International Metalworkers' Federation, March 2008, (in five languages) at:  
<http://www.imfmetal.org/index.cfm?c=17554>

International campaign against protection contracts in Mexico, at:  
<http://ccpp.iiec.unam.mx/ini.html>

Various news reports and statements of support at United Steelworkers website at:  
(search on Mexico) <http://www.usw.org>

Various news reports and statements of support at AFL-CIO website at:  
<http://www.aflcio.org>

Various news reports at United Electrical, Radio & Machine Workers of America (UE) International Mexican Labor News & Analysis at:  
<http://www.ueinternational.org/MLNA/>

For more details see:

- ➔ [www.imfmetal.org/mexico2011](http://www.imfmetal.org/mexico2011)
- ➔ [www.icem.org/en/5-Mining-DGOJP](http://www.icem.org/en/5-Mining-DGOJP)
- ➔ [www.uniglobalunion.org/MexicoAction](http://www.uniglobalunion.org/MexicoAction)



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