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Abstract:

The following paper broadly examines the implications and impacts of the Central American Free Trade Agreement (CAFTA) on development in Central America. I will begin by reviewing structural adjustment programs implemented in Central America in recent decades and analyze and compare alternative economic models. I will provide a generalized list of provisions implemented by CAFTA. The North American Free Trade Agreement (NAFTA) will provide a base to begin analyzing free trade agreements as it has been in place longer and therefore its effects are easier to measure. I will draw parallels between NAFTA and CAFTA and use a variety of case studies to illustrate current issues that have arisen due to the latter. Issues of agriculture, environmental degradation, human rights abuses, tourism development, health care, and national sovereignty will be discussed. I conclude that CAFTA, free trade as defined by CAFTA, and the global liberalization of markets occurs at the expense of local development and the environment and for the benefit of transnational corporate giants.

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Introduction & Justification:

Every morning on my walk from Sabanilla to the U-Latina campus in San Pedro, Costa Rica, I pass political graffiti crying out against the TLC, or “Tratado de Libre Comercio” known to the English-speaking world as CAFTA – Central American Free Trade Agreement. Similar messages can be found scrawled all over San Jose, and even on the doorstep of the presidential building downtown. The TLC has been a poignant and controversial topic since it was first signed by the Dominican Republic in 2004 as a sort of extension to the existing NAFTA – North American Free Trade Agreement – entered into by Canada, the United States, and Mexico in 1994. Since then, the TLC has been signed and implemented by El Salvador, Honduras, Guatemala, Nicaragua, and in 2007, Costa Rica, after scraping through with 51.6% of the votes in a public referendum. Two-time Costa Rican president, and Nobel Prize winner, Oscar Arias, holds much of the responsibility for the ratification of the agreement. His support for the TLC nearly cost him the 2006 presidential election, but he proceeded to push it through, making Costa Rica the final nation to join the defining economic pact for North America in the 21st century, solidifying a new age of neoliberalism. But why are so many activists in an uproar over the TLC? What will market liberalization and free trade mean for the people of Costa Rica and the rest of Central America? How will issues of human development and sustainable development be affected?

Background and Theoretical Framework:

CAFTA is in no way revolutionary. It invokes no new ideas or concepts, but rather expands the existing framework of the structural adjustment programs imposed on Latin American countries, and much of the developing world, starting after the 1980's economic crisis. The economic crisis of the 1980's, coined the "lost decade" by some, had an especially severe effect on the developing countries of the Western Hemisphere and sent many of them into debilitating debt. During this decade, Costa Rica received "assistance from USAID, the World Bank, and International Monetary Fund (IMF)" which "helped engineer the shift toward overseas, particularly U.S., investment" (Honey, 162). The flow of capital was conditional, and required that "Costa Rica quietly support the U.S. war against Nicaragua and adhere to wide-ranging structural adjustment policies such as privatization of government business and industries, promotion of exports and foreign investment, and cutting of funds for national parks, the ICT [Costa Rican Institute of Tourism], and other public institutions" (Honey, 162). Other developing countries were similarly coerced into adopting structural adjustment policies that effectively minimized the states ability to regulate their economies. The indebting of these countries to international financial institutions has cast a shadow on their sovereignty. Institutions within these countries no longer have the ability to act autonomously when enacting laws, directing tax money, or making decisions regarding economics and development.

Structural adjustment is synonymous with the Washington Consensus. The celebrated economist John Williamson coined the term in 1989. The Washington

Consensus consists of the following ten steps that floundering third world economies are compelled to undertake in order to receive loans from global institutions like the IMF or World Bank.

The Washington Consensus
1. Fiscal discipline
2. A redirection of public expenditure priorities (primary health care, primary education infrastructure)
3. Tax reform (to lower marginal rates and broaden the tax base)
4. Interest rate liberalization (later changed to financial liberalization)
5. A competitive exchange rate
6. Trade liberalization
7. Liberalization of inflows of foreign direct investment
8. Privatization
9. Deregulation (to abolish barriers to entry and exit)
10. Secure property rights

Prior to the economic crisis, most Latin American countries practiced import substitution industrialization (ISI), an economic blueprint that promotes domestic production over foreign imports in an attempt to stimulate the national economy and protect local industries from more powerful foreign competitors. Some key aspects of the ISI model include state led economic development through nationalization, subsidization of vital industries, increased taxation, and highly protectionist trade policies. In other words, the ISI model stands in stark contrast

with the deregulation and free market principles of structural adjustment and neoliberalism. Import substitution industrialization dates back centuries, and was made popular by the first U.S. Secretary of the Treasury, Alexander Hamilton at the turn of the 19th century.

The industrial revolution in the United States was accompanied by and made possible because of strict protectionist policies. While an article published by the CATO Institute – the influential libertarian think tank used by the Koch brothers, as a means to misinform the masses – claims that United States protectionism in the 1800’s did nothing for development, this assertion is widely contested. In order for the young textile factories of New England (whose construction incidentally resulted due to the stealing of patented machinery from overseas) to be able to compete economically with the more advanced industries of Great Britain, the playing field needed to be leveled. The Tariff of 1798 was the first import tariff enacted in the United States as a means to encourage consumers to buy domestic products and advance economic growth at home. This sparked an age of highly anti-free trade development for the U.S. christened “The American System.” The American System implemented three main measures: “a tariff to protect and promote American industry; a national bank to foster commerce; and federal subsidies for roads, canals, and other 'internal improvements' to develop profitable markets for agriculture” (Byrd). It was also characterized by import substitution tariffs, export subsidies, and a “willful violation of patents and trademarks” (Chang). These measures were a key factor in the explosion of the American economy in the coming centuries.

Friedrich List of Germany, a world-renowned economist of the 1800's, was another influential contributor to this approach to economic growth, which he dubbed "infant industry protectionism." Nearly 200 years ago, List argued that any nation that had used protectionism to develop superior manufacturing power so "that no other nation can sustain free competition with her, can do nothing wiser than to throw away these ladders of her greatness, to preach to other nations the benefits of free trade" (List). In other words, once a country has achieved an industry that dwarfs all others in comparison, it becomes beneficial for that country to destroy the protectionist policies of foreign economies so that their markets become accessible. This quote served as the inspiration for the title of Ha-Joon Chang's book, Kicking Away the Ladder, which addresses the pressures applied to developing countries to adopt "good" institutions and policies (SAPs, or structural adjustment programs), and the perverse motivation for these pressures. Chang concludes that free trade policies like those of the Washington Consensus inhibit rather than stimulate growth in developing countries. He advocates for a change in the rules of the game and argues that both developing and developed nations will benefit in the long run if newer economies are allowed to develop without the restrictions imposed by the World Trade Organization, the International Monetary Fund, and currently developed nations such as the United States.

"The failure of free-trade globalism to help the developing world has not been an accident... the rules of the world economy are designed not to help poor countries develop into modern economies, but to lock in the advantages of the present industrial leaders. The US and other advanced industrial countries are not only selfish but hypocritical. They would deny to newly-industrializing countries the very practices that they used in the past to become economic superpowers." - Lind

The Central American Free Trade Agreement is a long-winded legal document composed of twenty-two chapters and 2,400 pages. Several of its most relevant provisions are listed below:

- Cross-border trade in services: requires signatory countries to treat foreign service suppliers no less favorably than suppliers from within the country
- Financial Services: financial services offered by foreign entities may not be discriminated against
- Market access: abolishes protective trade barriers (e.g., tariffs)
- Intellectual property rights: requires participating countries to adhere to various international agreements on intellectual property rights such as Trade Related Intellectual Property Rights (TRIPS) and patents
- Dispute resolution: conflicts over rules of the agreement will be resolved by an independent third party (e.g., international court)
- Test data exclusivity for pharmaceutical corporations: generic equivalents of brand-name drugs may not be verified using the same data used by the brand-name company (One company tests a drug, verifies its quality, brands it and puts it on the market. Other companies may want to use the same data as proof of the same drug's quality, but are prohibited from doing so, and therefore cannot offer the same drug without conducting their own extensive tests)

Each of these provisions favor foreign investment and the transnational corporation over the local human and sustainable development of the signatory countries. While the framework of this paper does not allow for all of these provisions to be examined thoroughly, I will elaborate on market access, dispute resolution, and test data exclusivity, as well as draw broader conclusions regarding the general impact of the treaty.

Methods:

A variety of online journals, articles, essays, etc., were consulted for the research of this paper. Online databases such as Business Source Premier were utilized. Class readings such as *Costa Rica: On the Beaten Path* contributed. Documentaries such as *Cracking the Golden Egg* were analyzed. A personal interaction with the informed Nicaraguan tour guide, Osvaldo, is cited.

Development:

As CAFTA is still in the beginning stages of implementation, examining NAFTA and its effects on development in Mexico will be instructive. Using a number of economic measures, it is evident Mexico has suffered since NAFTA's enactment in 1994. Between 1990 and 1999, minimum wage in Mexico fell 17.9%, contract wages fell 21.3%, and manufacturing wages fell 20.5%. NAFTA "devastated the Mexican agricultural sector" (Madrid, 194) and opened the floodgate for imports of subsidized U.S. crops. "Imports of corn grew by 3,000%" in a country in which agriculture had been a core industry for much of the population. Local farmers and small and micro enterprises were hit hardest. "Since NAFTA, 200,000 Mexican [small and micro enterprises]" have collapsed due to their inability to compete with the gargantuan U.S. industrial farmers. Mexico "now imports 50% of its rice and 40% of its beef", and the farmers who had previously provided such products are left with no livelihood (Madrid).

Similar results are occurring in El Salvador, and are expected to occur in the other CAFTA signatory countries, all of whom depend heavily on their agricultural sectors. The U.S. International Trade Commission predicted that removal of trade barriers under CAFTA would "boost US exports of agricultural and manufactured goods to the region by an estimated US\$2.7 billion (roughly 15%)" (DeVault, 284). The CAFTA principle of national treatment declares that no country may "discriminate" against foreign companies or investment "by offering preferences to companies based in their respective nations or products produced within its borders" (Wilson). In other words, one of the most basic and logical tools that

countries have historically used to stimulate their national economies has been forbidden. While the United States maintains that “national treatment will level the playing field,” Madrid likens it to “removing David’s slingshot” in his battle against Goliath. It is estimated that the United States spends “\$18 billion annually in subsidies for domestic and exported products” (Madrid). Yet ironically, U.S. trading partners have been prohibited from subsidizing their exporting industries, and the policies of structural adjustment have made it virtually impossible for Central American governments to direct funds to subsidization. Perhaps a more accurate analogy would be equipping Goliath with a rocket launcher and tying David to a tree.

Before the signing in 2004, many educated factions within El Salvador “warned that the trade agreement would increase poverty, worsen labor conditions, and undermine national sovereignty.” When the popular majority took to the streets in protest against the signing of CAFTA, “they were met with violent police repression and a multi-million dollar government funded pro-CAFTA campaign.” When the agreement was finally signed, it required “hundreds of riot police to keep the protesters at bay” (Wilson).

Already, the Association of Small and Micro Enterprises has recommended that small and micro enterprises in El Salvador “abandon production” (193) in favor of importing and selling U.S. goods. The tearing down of import tariffs in these Latin American countries has effectively extinguished any feasibility of local competition. Farmers who wish to remain employed are being forced to swallow their pride and go to work peddling goods for the companies that destroyed their livelihoods.

Agriculture is only one area of distress that El Salvador has had to face in the past decade due to the implementation of CAFTA. The country is currently being sued for \$315 million by Pacific Rim Mining Corp., a Canadian gold mining company. The lawsuit originated from a dispute over the extraction methods the company intended to use in the El Dorado Gold Mine, which resulted in the government's refusal to grant a license to exploit the gold mine. While Pacific Rim originally marketed its methods as "green-mining," it soon became evident that there was zero scientific meaning to the term. The same mining method had previously been used at the Valle de Siria gold mine in Honduras. It was accompanied by an infant mortality rate in the surrounding village that was twelve times higher than the national level. The gold extraction method requires the use of "almost 240,000 gallons of water a day," the equivalent amount that "an average Salvadoran family use[s] over twenty years." The water is polluted with heavy metals and/or cyanide and inevitably contaminates the surrounding watersheds, devastating natural ecosystems and human populations alike. As El Salvador is already the Latin American country with the least access to clean drinking water, this presents an alarming problem (Wilson).

Local Salvadorans have organized on a grand scale in opposition to the environmental destruction and pollution. However, political and police corruption have complicated the matter. Several prominent activists have been murdered, allegedly in relation to the anti-mining campaign, and police have either looked the other way, or been complicit in the crimes (Wilson).

Article 10.28 of CAFTA includes in the definition of investment “the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk,” meaning that corporations may sue for “money they thought they were going to earn” (Wilson) as well as actual damages. And now, El Salvador is being dragged to an international arbitrator to solve the dispute. Although Pacific Rim has failed to comply with El Salvador’s legislation regarding environmental protections, CAFTA renders these laws irrelevant.

While corruption and violence may not run as deeply in Costa Rican culture as they do in that of El Salvador, the country will still be subject to similar advances by transnational corporate giants. A strikingly similar lawsuit has been filed against Costa Rica. Infinito Gold was prohibited from mining because of environmental protection issues, and is now suing Costa Rica for billions (Hunka). If mining companies can sue these countries even when they have violated national law, what is to stop luxury resorts from doing the same. Already, communities of Guanacaste have faced abuse at the hands of large hotel companies who disregard environmental issues and the needs of local communities in favor of profit.

Tourism can have a positive impact on local communities. It can provide economic opportunities for locals while providing educational and enlightening experiences to foreigners. When conducted in a well planned and deliberate manner tourism can be a wonderful way for local people to make a living while providing an important service. However, oftentimes tourism can have detrimental effects on local development. Local involvement and empowerment are essential to creating a sustainable tourism endeavor. The massive multinational enterprises

that have become so popular in Costa Rica in the past two decades generally fail to incorporate such necessities.

Guanacaste has traditionally been one of Costa Rica's poorest provinces, so tourism projects appealed to politicians as a means by which to bring development to the region. The internationalization of the Daniel Oduber Quirós Airport in Liberia, Guanacaste in 1995 marked the beginning of large-scale tourism projects in the region. Now, the airport is less than an hour's drive from all inclusive luxury resorts such as Four Seasons Papagayo, Hilton Papagayo, Occidental Papagayo, Westin Playa Conchal, RIU Guanacaste, Tamarindo Diria, and JW Marriot at Hacienda Pinilla. Each of these hotels has something in common: they are all foreign-owned billion-dollar entities.

Unfortunately, it is the all-inclusive tourism that is booming in Costa Rica, meaning that tourists tend to spend more money inside their resorts and less money in the local communities. Visitors have no need to contribute to local markets when the hotel supplies all their needs and likely stocks its gift shop with commodities that were made in China. Even the food is imported from larger, cheaper companies, often foreign based. This form of tourism is highly unsustainable and contributes virtually nothing to local development.

When looking at the effect of luxury resorts on GDP and other economic indicators, they appear to have a positive impact on the area. Locals living in Guanacaste tend to disagree. According to Eunice Contreras, a local mother living in the village of Sardinal, "the arrival of tourism to Guanacaste has been detrimental." Large hotels such as those listed above require vast amounts of water to function.

Eunice asserts that hotels in her town consume 90% of the water available, leaving little to nothing for the villagers and the natural ecosystems. A standard golf course alone consumes roughly the same amount of water as a village of five to ten thousand people. The luxury resorts of the Papagayo Peninsula have three. Villagers protested and rioted over the unfair allocation of water in the region, but to no avail (*Cracking the Golden Egg*).

The Tourism Development Incentive Law of 1985 created tax breaks for people opening tourism endeavors. For businesses to qualify, however, they “needed to have more than twenty rooms” (Honey, 162) and conform to other standards. According to anthropologist Carole Hill, “These restrictions often preclude local people from qualifying for incentives” (Honey, 162). By 2001, almost all of the tax breaks offered to tourism projects were eliminated except for “tax exemption for the import and purchase of goods necessary for building a new hotel.” This break naturally “favors large businesses that can afford the onerous legal work necessary to qualify for this exemption” (Honey, 163) as well as the foreign suppliers of such goods. Subtle rules such as these, whose roots lie in the period of economic reform of the 1980s, act as stepping-stones on the path to neoliberalism and tend to favor development for wealthy, often foreign actors, leaving local communities to suffer the consequences.

Foreign investment in Costa Rica exploded starting in the 1980's. “Experts estimated that by the early 1990s, 80% of the country's beachfront property had been purchased by foreigners” and a survey of hotel ownerships along the Pacific beaches in Costa Rica conducted by Anne Becher “found that the majority (57%) of

hotels and resorts were foreign owned” (Honey, 164). Time and time again, foreign hotels such as these have failed to consider their impact on local communities and environments. CAFTA only furthers the ability of foreign investors to encroach on the lucrative tourism sites of Central America and exploit them without regard to the consequences of their actions.

On my ICDS managed excursion to Nicaragua, I was blessed with tour guides of exceptional knowledge and intelligence. On Friday, November 1, Osvaldo educated a handful of us on recent land ownership trends in Nicaragua. He told of how since the end of the revolution in 1989, Nicaraguans had been purchasing stretches of beachfront property five or six figures (U.S. dollars). The economy was on the rise as was property value. There was hope for local development. However, a common theme presented itself: vast multinational corporations were approaching local landowners and buying property for ludicrous sums, sometimes a hundred times the original price. Osvaldo’s impersonation of the buyers: “what does your land cost, \$30,000? \$60,000? Here, \$2 million, you leave tomorrow.”

Although CAFTA may not be directly responsible for such poaching of local land, it certainly prevents any government programs that would encourage or incentivize locals to stay. It is open season on Central American land holdings, and the result will be cultural eradication in favor of western commercialization.

We live in a world where water is privatized and basic health care can cost thousands of dollars. Food is traded on financial markets as if it were any other commodity. Virtually no resources remain that have not been swallowed up and corrupted by the ability and desire to profit. The most basic and universal

necessities that all humans should be entitled to are commoditized. Medicine is no different. The intellectual property rules enforced by CAFTA apply to manufactured medicines and drugs. They serve as means to monopolize the market for medicine in continental North America in the name of profit.

Health care and access to drugs in Guatemala has become complicated due to the data exclusivity provision of CAFTA. When a company discovers a drug to treat heart disease, cancer, HIV/AIDS, or whatever the affliction may be, it is required to conduct extensive testing on the drug to establish its effectiveness and safety. After the results come back positive, the company has two options. It can patent the drug, or apply for data exclusivity. Data exclusivity means that for a period of five to fifteen years, only this company may use its test data to confirm the validity of the drug. Other companies who wish to provide the same drug (without the brand-name) may not until the period of protection has ended.

Data exclusivity essentially creates a monopoly of the drug market for brand-name producers, and has resulted in many generic, cheaper equivalent drugs being taken off the market in Guatemala. For example, four generic versions of a drug used to prevent heart attacks and strokes have been removed from the market in Guatemala as a result of CAFTA's rules on intellectual property (Shaffer). The difference between the generic drugs and the brand name is nothing more than the label. And yet people are being denied competitively priced substitutes so that foreign pharmaceutical companies may turn a profit. Studies have shown brand-name drugs almost always cost more than generic versions, generally significantly so.

Conclusion:

The data begs the question: Cui Bono? Who stands to gain? CAFTA was campaigned for by vested interests in the United States legislative branch during the Bush Administration. Despite general local opposition to the treaty, each signatory country has experienced extreme pressure, via media influence, direct pressure from United States politicians, or well-funded pro-CAFTA campaigns, to ratify the agreement (Lyderson, Public Citizen). Clearly, someone is highly invested in the free trade agreement and the market liberalization that accompanies it. Some do stand to gain, but it is clear that it is not average working people of Central America.

The United States government is no longer merely indebted to the Goliath corporations who fund their campaigns; the two have become one in the same. Hundreds of millions of dollars contributed to political parties aside, a more direct form of influence exists. Whether it be leadership movement from financial industry to head of Federal Reserve, from military general to defense contractor lobbyist, or from Monsanto to Food and Agricultural Organization, virtually every corner of government in America has been infiltrated by corporate representatives with blatant conflicts of interest (Monbiot, CREW). Journalist George Monbiot describes the United States and the European Union as “captured by the corporations they are supposed to regulate.” This revolving-door phenomenon defines the current political system. What do all of these factions have in common? The drive to profit.

The altruistic motivation for neoliberal policies of stimulating economic growth is a façade. Nearly every country that has succumbed to the implementation

of the Washington Consensus has experienced less growth since discarding their previous strategy of “infant industry protectionism” (Shah). CAFTA is just one of the dozens of free trade agreements that are breaking down the barriers that kept transnational monopolies at bay. In the words of Lori Wallach, the director of Public Citizen’s Global Trade Watch division, “This policy, supported by the elite, will help foreign investors seize control of their natural resources, undermine access to essential services, displace peasant farmers and jack up medicines prices.” Truer words were never spoken. The coercive enactment of free trade agreements, structural adjustment, and liberalization serves to benefit multinational corporate giants at the expense of local development.

CAFTA is not the first measure taken in the direction of a neoliberal global state, nor is it the last. The Transatlantic Trade and Investment Partnership (TTIP) is in the process of removing all trade barriers between the United States and the countries of the European Union. Many of the goals of the TTIP mirror those of other free trade agreements, and although outcomes will undoubtedly differ from those occurring in Central America, a similar extension of power will be granted to big business.

CAFTA and other free trade agreements promote globalization, but impart a new connotation to the word. The globalization of transnational corporations occurs at the expense of the average person. Free trade has become a tool for transnational giants to subvert national law and create a hegemonic system in which international trade agreements supersede all other law.

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