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ICAR Submission to the UN Special Rapporteur on Extreme Poverty and Human Rights

The International Corporate Accountability Roundtable (ICAR) is a civil society organization that harnesses the collective power of progressive organizations to push governments to create and enforce rules over corporations that promote human rights and reduce inequality. ICAR provides this submission in response to a request for information from the United Nations Special Rapporteur on Extreme Poverty and Human Rights in the context of the United States. It is envisaged that information in this report will be used to prepare for the Special Rapporteur's visit to the United States in 2017 and the next report to the UN Human Rights Council in 2018.

While there are multiple and complex causes of poverty and inequality in the United States, this submission seeks to provide insight into one key driver for poverty in the United States—the corporate influence of U.S. trade policies.

1. The Relationship between Trade, Poverty, and the Enjoyment of Human Rights

International trade agreements make it easier for countries to move goods and operations across borders. However, while such trade deals may generate economic benefits in aggregate, they also bring forth a number of transitional costs as industries create and reorganize their business activities to take advantage of the new trading framework. For example, economists have acknowledged that trade can create significant distributional impacts and generate increased inequality and poverty. Such impacts are often highly concentrated in certain communities and borne by individuals in industries directly hit by the trade policy, if the country fails to implement appropriate accompanying domestic policy to address such disruptive effects.

Trade Policies as a Driver of Poverty

In the United States, trade policies have resulted in huge disruptive effects on communities and workers. In recent years, the U.S. government has significantly lowered tariffs and other non-tariff barriers to facilitate free flow of goods and services from a wide number of trading partners. These policies place U.S. domestic manufacturing industries in fierce competition with

¹ Making Trade an Engine of Growth for All—The Case for Trade and for Policies to Facilitate Adjustment, WORLD TRADE ORG., IMF & THE WORLD BANK 24-25 (Apr. 10, 2017), https://www.imf.org/en/Publications/Policy-Papers/Issues/2017/04/08/making-trade-an-engine-of-growth-for-all.

² See, e.g., Paul Krugman, *Trade and Wages, Reconsidered* (Feb. 2008), https://www.princeton.edu/~pkrugman/pk-bpea-draft.pdf; Ravi Batra & Daniel J. Slottje, *Trade Policy and Poverty In the United States: Theory and Evidence*, 1 REV. OF INT'L ECON. 189, Oct. 1993; The China Trade Shock: Studying the impact of China's rise on workers, firms, and markets, http://chinashock.info/.

foreign imports that may be made under sub-par labor and environmental standards, and at the same time allow U.S. companies to lower costs by offshoring production to countries with the lowest labor, environmental, and human rights standards. This perpetuates misery in developing countries and simultaneously has led to the collapse of commodity manufacturing in the United States, such as in food processing; furniture and wood products; chemicals and petroleum; metals and metal products; transportation equipment; apparel, leather (footwear), and textiles; paper and printing; plastic, rubber, glass, and nonmetallic minerals; machinery and electronics; and other miscellaneous industries (including toys, sports equipment, and jewelry).³

This in turn has left many communities that rely on manufacturing of such products abandoned and even destroyed. A few cities and towns have managed to adapt by shifting towards high-tech industries and services; others have not fared so well. Several studies show that the effects of trade are felt most acutely in communities in California, the so-called Rust Belt states in the Midwest, and a number of states in the south.⁴

The result is staggering. From 2000 to 2010, following China's admission to the World Trade Organization (WTO), Ohio lost 368,000 manufacturing jobs, North Carolina 360,000, Michigan 340,000, and Pennsylvania 314,000.⁵ Also, due to the import competition from China, particularly in computer and electronics industry and furniture manufacturing sector, California, has in fact contributed the most to the overall decline in manufacturing employment—about 12% of manufacturing job loss in the whole country occurred in California.⁶

Workers who lost their jobs often have few readily transferable skills, and trade assistance programs have been unable to facilitate their transition into another industry. As such, many experience chronic unemployment and/or choose to depart the workforce completely. One study finds that "workers in these industries and regions do not go on to better jobs, or even similar jobs in different industries. Instead, they shuffle from low-paid job to low-paid job,

³ David H. Autor et al., *Trade Adjustment: Worker-Level Evidence*, Q. J. of Econ., 1799, 1799-1860 (2014).

⁴ Lorenzo Caliendo, Maximiliano Dvorkin & Fernando Parro, *Trade and Labor Market Dynamics: General Equilibrium Analysis of the China Trade Shock*, Federal Reserve Bank of St. Louis (2017),
https://doi.org/10.20955/wp.2015.009; Illenin O. Kondo, *Trade Reforms, Foreign Competition, and Labor Market Adjustments in the U.S.*, The Federal Reserve Board (2013); David H. Autor, David Dorn & Gordon H. Hanson, *The China Shock: Learning from Labor-Market Adjustment to Large Changes in Trade*, 8 Annual Rev. of Econ., 205, 205-240 (2016); Joseph Parilla & Mark Muro. *Where Global Trade has the Biggest Impact on Workers*, Brookings Institute, Dec. 14, 2016, https://www.brookings.edu/blog/the-avenue/2016/12/14/where-global-trade-has-the-biggest-impact-on-workers/.

⁵ Edward Alden, How to Help Workers Laid Low by Trade-and Why We Haven't, PBS Newshour, Nov. 16, 2016, http://www.pbs.org/newshour/making-sense/column-help-workers-laid-low-trade-havent/?platform=hootsuite.

⁶ Lorenzo Caliendo, Maximiliano Dvorkin & Fernando Parro, *Trade and Labor Market Dynamics: General Equilibrium Analysis of the China Trade Shock*, Federal Reserve Bank Of St. Louis (2017), https://doi.org/10.20955/wp.2015.009.

never recovering the prosperity they had before Chinese competition hit."⁷ For example, in Scioto County, Ohio, 42% of men in the working age are either unemployed or out of the labor market, doubling the national average rate of roughly 20%.⁸ A few individuals in these communities eventually found jobs, but in more service-based economies like Chicago, Minneapolis, and New York,⁹ with far fewer wages and benefits than they were earning before.¹⁰

As a result, in these communities affected by trade, many are living under the federal poverty line. In Cleveland, Ohio, a city among many relics across the Rust Belt, it is estimated that 36.2% of the population now live below the poverty level. Similarly, Canton, another city in Ohio, has a population of more than 70,000 and poverty rate of 32.3%. In California, 27.3% of Stockton town population live below the poverty level. More than half of the children in Detroit, Michigan (60%) and Cleveland, Ohio (54%) live in poverty, according to census data in 2016.

Factory shutdowns have impacts beyond local employment. As these communities lose their primary sources of income, cities and local municipalities are forced to cut down spending on public resources. For example, the city of Lorain, Ohio has seen around 1,200 steel manufacturing jobs slashed. In 2016, following the closing of U.S. Steel and Republic Steel mills, which accounted for 10 percent of the city's general revenue, ¹⁶ the city faced a budget deficit of \$3.6 million. Public services thus suffered drastic cuts: 22 firefighters were laid off, the police

⁷ Smith, *Free Trade With China Wasn't Such a Great Idea for the U.S.*, Bloomberg, Jan. 26, 2016, https://www.bloomberg.com/view/articles/2016-01-26/free-trade-with-china-wasn-t-such-a-great-idea.

⁸ Alana Semuels, 'All the Men Here Are Either on Drugs or Unemployed', The Atlantic, May 9, 2017, https://www.theatlantic.com/business/archive/2017/05/men-women-rust-belt/525888/.

⁹ Morgan Olsen, *Men Disappear From Rust Belt as Unemployment and Addiction Rise*, Go Big Red, May 31, 2017, https://gobigread.wisc.edu/2017/05/men-disappear-from-rust-belt-unemployment-addiction-rise/.

¹⁰ Mark Muro, *It Won't Be Easy to Bring Back Millions of Manufacturing Jobs*, Brookings: The Avenue, Nov. 18, 2016, https://www.brookings.edu/blog/the-avenue/2016/11/18/it-wont-be-easy-to-bring-back-millions-of-manufacturing-jobs/.

¹¹ Poverty Rates, Child Poverty Rates for Each Ohio City: Consensus Estimates, Cleveland Data Central, http://www.cleveland.com/datacentral/index.ssf/2016/12/poverty_rates_child_poverty_ra_1.html (last updated Dec. 27 2017).

¹² *Id*.

¹³ Stockton, California (CA) Poverty Rate Data, City-Data.com, http://www.city-data.com/poverty/poverty-Stockton-California.html.

¹⁴ Projects in Detroit, Poverty Solutions, http://poverty.umich.edu/projects/projects-in-detroit/.

¹⁵ Poverty Rates, Child Poverty Rates for Each Ohio City: Consensus Estimates, Cleveland Data Central, http://www.cleveland.com/datacentral/index.ssf/2016/12/poverty_rates_child_poverty_ra_1.html (last updated Dec. 27 2017).

¹⁶ Eric Sandy, *After 1,200 Steal Jobs Disappeared in One Year, Loraine Pinches Pennies to Keep the City on Life Support*, Scene, Sept. 14, 2016, https://www.clevescene.com/cleveland/after-1200-steel-jobs-disappeared-in-one-year-lorain-pinches-pennies-to-keep-the-city-on-life-support/Content?oid=4959251.

department has been continuously understaffed, most of the parks were neglected, and the city had to turn off some traffic lights to save on its electric bills.¹⁷

Lorain's economic trouble is by no means unique. It illustrates the situation of communities where the fate of the residents is tied to industrial work, manufacturing, and farming. People in these communities not only live in poverty, but their situation is further exacerbated by the lack of an access to effective public infrastructure and welfare systems.

Specific Human Rights Challenges

The detrimental effects of trade and ensuing poverty have a range of negative human rights implications. The most immediate impact is *the right to an adequate standard of living*, including food and housing. Unable to pay for mortgages or monthly rent, unemployed workers are forced out of their homes. In 2015, for example, local agencies in Stockton, California reported that more than 1,200 people live in homeless shelters and more than 500 adults and 26 children sleep on the streets, doubling the number in 2013.¹⁸

Trade-induced poverty also has an impact on the realization of *the right to health* among poor individuals and family. Not only does poverty make it difficult to secure stable housing, clothing, and food, for children of displaced workers, "the daily stress [they] endure under these conditions takes a huge toll on their mental and physical health. [T]he impacts can start as early as birth."¹⁹

Depression from job loss and poverty have turned many to highly addictive pain-killers, which may lead to a wide range of health problems, including death. A number of communities affected by the disappearance of manufacturing jobs in West Virginia, Ohio, and Kentucky have witnessed a rise of opioid abuse among working age men.²⁰ In Kanawha County, West Virginia, a region that has seen more than 50% loss of jobs in manufacturing, has some of the most concentrated rates of opioid overdoses in the country.²¹ Drug overdose was the cause for the

¹⁷ *Id.*; *The Heartland: Life and Loss in Steel City*, MSNBC, https://www.nbcnews.com/specials/geographyofpoverty-heartland-1.

¹⁸ *The Geography of Poverty*, http://www.geographyofpoverty.com/post/147453311148/stockton-ca-stockton-has-a-population-of.

¹⁹ Brie Zeltner, *More Than Half of Cleveland Kids Live in Poverty, and It's Making Them Sick*, Cleveland.com, Sept. 30, 2014, http://www.cleveland.com/healthfit/index.ssf/2014/09/more_than_half_of_cleveland_ki.html.

²⁰ Morgan Olsen, *Men Disappear From Rust Belt as Unemployment and Addiction Rise*, Go Big Red, May 31, 2017, https://gobigread.wisc.edu/2017/05/men-disappear-from-rust-belt-unemployment-addiction-rise/.

²¹ Cameron Hardesty, *5 Things To Know About Opioid Overdoses*, The White House Blog Archives, Feb. 11, 2014, https://obamawhitehouse.archives.gov/blog/2014/02/11/5-things-know-about-opioid-overdoses.

deaths of more than 3,000 Ohio residents in 2015, 70.5% of which were men.²² Opioid epidemic is one of the biggest contributors to the rising mortality rate of men in Ohio.²³

A recent study by economists Justin Pierce and Peter Schott also found that counties whose local industries were more exposed to Chinese competition had higher mortality rates. They speculate that losing jobs and health care coverage eventually led to deteriorating health for affected workers.²⁴

2. Trade Policy in the United States: The Current State of Play

Given the relationship between trade, poverty, and the enjoyment of human rights, it is critically important to examine how trade policy is developed in the United States, who is sitting at the negotiating table, and what impacts these policies are having on the realization of human rights.

To date, U.S. trade policies have been developed in absence of adequate transparency and democratic participation. And yet, corporations have been granted a significant amount of access providing them with the opportunity to exert great influence over trade negotiations and other processes in which U.S. trade policies are developed. As a result, U.S. trade policies are geared towards benefiting the bottom line of corporations, and have failed to take consideration over the potential negative impact of trade on human rights.

Lack of Adequate Openness and Transparency

The United States Trade Representative (USTR) engages all trade negotiation behind closed doors and is permitted, but not required, to designate the negotiating texts "top secret" for national defense or foreign policy reasons and thus exempt the working language from federal disclosure law.²⁵ In reality, almost all trade negotiation texts in recent years were classified, accessible to only very limited groups of individuals, and were only released for wider congressional consideration on a take-it-or-leave-it basis after the negotiations are completed. For example, during the negotiations of the Trans-Pacific Partnership (TPP) agreement, the USTR refused to publish any TPP proposals, despite numerous calls from civil society,

²² 2015 Ohio Drug Overdose Data: General Findings, Ohio Department Of Health, https://www.odh.ohio.gov/-/media/ODH/ASSETS/Files/health/injury-prevention/2015-Overdose-Data/2015-Ohio-Drug-Overdose-Data-Report-FINAL.pdf.

²³ Alana Semuels, 'All the Men Here Are Either on Drugs or Unemployed', The Atlantic, May 9, 2017, https://www.theatlantic.com/business/archive/2017/05/men-women-rust-belt/525888/; 2015 Ohio Drug Overdose Data: General Findings, OHIO DEPARTMENT OF HEALTH, https://www.odh.ohio.gov/-/media/ODH/ASSETS/Files/health/injury-prevention/2015-Overdose-Data/2015-Ohio-Drug-Overdose-Data-Report-FINAL.pdf.

²⁴ Justin R. Pierce & Peter K. Schott, *Trade Liberalization and Mortality: Evidence from U.S. Counties*, Federal Reserve Board (2016), https://www.federalreserve.gov/econresdata/feds/2016/files/2016094pap.pdf.

²⁵ See Ctr. for Int'l Envtl. Law v. Office of the United States Trade Representative, 718 F.3d 899 (D.C. Cir. 2013) (holding that the USTR was justified in keeping secret a document that set out U.S. positions on the interpretation of international trade laws that effect the environment).

academics, and even members of Congress asking the agency to make the text available for public consultation.²⁶ Most recently, in August 2017, an USTR official said that the texts of the North American Free Trade Agreement (NAFTA) renegotiations will similarly not be released to the public.²⁷

Ironically, despite the fact that even most of the members of Congress are not allowed to view the draft texts of these working trade deals, many business representatives have formal access to them, including during the TPP negotiations.²⁸ This allows industry representatives closed door and unfettered access to trade negotiators, while at the same time, denies other relevant stakeholders to be consulted and provide input into on-going trade negotiations.

Recognizing the value of public consultation, the WTO and the European Union (EU)²⁹ have taken steps to improve transparency in their trade negotiation practices, while the U.S. government continues to refuse releasing working texts publically.

Domination by Corporate Representation and Interests

The U.S. trade policy framework structurally legitimizes direct influence by corporations. The USTR regularly solicits inputs on trade policies from 28 trade advisory committees through formal scheduled meetings. In addition to these meetings, the USTR also informally request advice from committee members through faxes, emails, ad hoc meetings, and teleconferences when they need a rapid response.³⁰

This system was created by Congress in 1974 to ensure that U.S. trade policy and negotiating objectives adequately reflect U.S. public and private sector interests.³¹ While originally designed to incorporate a broad range of interests, the trade advisory committees have been dominated by industry voices. Statistics by the Washington Post in 2014 showed that private

Press Release, Official Webpage of Senator Brown, With Trans-Pacific P'ship Negotiations Set to Continue in Cal. Next Week, Senators Call for Increased Transparency, Including Broader Consultation on Internet Freedom (Jun. 25, 2012) (https://www.brown.senate.gov/newsroom/press/release/with-trans-pacific-partnership-negotiations-set-to-continue-in-california-next-week-senators-call-for-increased-transparency-including-broader-consultation-on-internet-freedom); *IYCMI: Wyden Statement Introducing "Congressional Oversight Over Trade Negotiations Act*, Ron Wyden For Senator Blog, May 23, 2012, https://www.wyden.senate.gov/news/blog/post/iycmi-wyden-statement-introducing-congressional-oversight-over-trade-negotiations-act; Letter from Elizabeth Warren, Massachusetts Senator, to Michael Froman, U.S. Trade Representative (Jun. 13, 2013) (http://images.politico.com/global/2013/06/12/ew_ltr_to_froman_61313.html).

Megan Cassella, Welcome to NAFTA Launch Day, POLITICO, Aug. 16, 2017, http://www.politico.com/tipsheets/morning-trade/2017/08/16/welcome-to-nafta-launch-day-221910

²⁸ 2017 Trade Transparency Roundtable: Advancing an Openness Agenda on Trade Negotiations, Open The Government, Jan. 25, 2017, http://www.openthegovernment.org/node/5410.

²⁹ European Commission: EU Negotiating Texts in Transatlantic Trade Investment Partnership, http://trade.ec.europa.eu/doclib/press/index.cfm?id=1230 (last updated Jul. 27, 2016) (European Commission attempting to increase transparency by releasing negotiating texts of the Transatlantic Trade and Investment Partnership (T-TIP) on its website).

³⁰ U.S. Gen. Accounting Off., GAO-02-876, International Trade: Advisory Committee System Should be Updated to Better Serve U.S. Policy Needs (2002) http://www.gao.gov/new.items/d02876.pdf.

³¹ U.S. Dep't of Agric.: Foreign Agric. Serv., https://www.fas.usda.gov/topics/trade-advisory-committees.

companies and trade associations represented 85% of the Obama administration's 566 trade committee members.³²

In addition, corporations and trade associations spend billions of dollars hiring lobbyists and attorneys to push their agenda and shape trade policymaking. According to Reuters, in 2015, the lobbying expenditure surged among members of pro-TPP business coalitions, spending on average \$130 million in each quarter of that year.³³ For instance, brand name apparel and footwear companies such as Nike spent more than one million dollars in both 2014 and 2015 lobbying on TPP related issues, almost doubling the amount the company spent in previous years.³⁴ In the past four years, there are approximately 900-1000 entities lobbying on trade every year, with most of them being companies and trade associations.³⁵

Failure to Consider Trade Impact on U.S. Workers

As a result of the extensive and unfettered corporate influence, **U.S. trade policy overwhelmingly favors corporate interests with little regard to U.S. workers**. Trade policy makers often claim that trade deals undergo rigorous cost and benefit analysis on the whole U.S. economy based on objective economic models. However, such analysis looks at the macroeconomic effects of trade, and does not consider impact at the local or community level. This approach assumes that the benefits received by corporations will ultimately trickle down and benefit the broader population. For example, many economists have, for years, believed that the millions of jobs lost to trade with China were tiny³⁶ compared to over the 3 million net new jobs created in the U.S. economy.³⁷ However, this falsely assumed that the new jobs created, often in higher-paying service sector,³⁸ are readily available to the workers who lost their jobs due to U.S. trade policy.

https://www.opensecrets.org/lobby/clientsum.php?id=D000027998&year=2017; OpenSecrets.org: Center for Responsive Politics, https://www.opensecrets.org/lobby/lookup.php?type=i&q=Trans-Pacific+Partnership; Kate Abnett, *Money Well Spent? Why Fashion Companies Spend Big on Lobbying Governments*, Business of Fashion, Oct. 27, 2015, https://www.businessoffashion.com/articles/intelligence/money-well-spent-why-fashion-companies-spend-big-on-lobbying-governments.

https://www.opensecrets.org/lobby/issuesum.php?id=TRD&year=2017

³² Christopher Ingraham & Howard Schneider, *Industry Voices Dominate the Trade Advisory System*, The Washington Post, Feb. 27, 2014, http://www.washingtonpost.com/wp-srv/special/business/trade-advisory-committees/.

³³ Alex Wilts, *Corporate Lobby Expense Jumps as U.S. Trade Debate Rages*, Reuters, Jul. 23, 2015, http://www.reuters.com/article/us-trade-tpp-lobbying-idUSKCN0PX2JO20150723.

³⁴ OpenSecrets.org: Center for Responsive Politics,

³⁵ OpenSecrets.org: Center for Responsive Politics,

³⁶ *Trade, at What Price?*, The Economist, Apr. 2, 2016, https://www.economist.com/news/united-states/21695855-americas-economy-benefits-hugely-trade-its-costs-have-been-amplified-policy.

³⁷ Bryan Riley, *Trade with China is a Net Plus for Americans*, The Heritage Foundation, Aug. 31, 2016, http://www.heritage.org/trade/commentary/trade-china-net-plus-americans.

Tim Worstall, *The U.S. Lost 7 Million Manufacturing Jobs—and Added 33 Million Higher-Paying Service Jobs*, Forbes, Oct. 19, 2016, https://www.forbes.com/sites/timworstall/2016/10/19/the-us-lost-7-million-manufacturing-jobs-and-added-33-million-higher-paying-service-jobs/#c2b26ff4a205.

Policymakers also rely on the Trade Adjustment Assistance (TAA) program to rectify the negative impact of trade on domestic workforce. In the United States, the TAA is the only support program for workers affected by trade. However, the program has not been sufficient or effective in helping workers who experience unemployment and lost earning resulting from factory closings and the offshoring of jobs.³⁹ TAA provides benefits to only a fraction of laid-off workers. Although the program varies from time to time, it largely covers only those whose factories shut down because of direct competition from foreign imports or shift in production to a country with whom the U.S. has signed a free trade agreement (FTA).⁴⁰ This effectively left out manufacturing workers affected by factory offshoring to non-FTA countries such as China, India, and others.

For workers who do qualify for TAA, support is inadequate. Under normal circumstances, eligible workers receive some Trade Readjustment Allowance, a small cash amount equivalent to their weekly unemployment insurance, for a short period of time under the condition that they are enrolled in training. However, significant portion of workers did not receive the Trade Readjustment Allowance—in 2011 there were over 190,000 TAA participants but only around 46,000 received this allowance because of a strict training enrollment deadline.⁴¹

3. Recommendations to the U.S. government

In recent years, new political challenges to current U.S. trade policies have emerged, and the Trump administration has repeatedly emphasized the need to reform the system to protect American workers, including through initiating the renegotiation of NAFTA. This is a critical time to examine the impacts of trade from a human rights perspective in the United States. This will ensure that the politicians championing alternatives to the existing framework are held accountable to implement policies that truly serves the public, instead of the corporate interests.

As such, we urge the Special Rapporteur to include trade issues during his visit as one of the key drivers for poverty in the United States. Additionally, the Special Rapporteur should urge the U.S. government to address the negative impacts of the corporate capture of U.S. trade policy, including through carrying out the following measures:

- Place human rights at the front and center of trade policymaking. This can be achieved by:
 - Enhancing transparency in its trade negotiation process; and

³⁹ David H. Autor et al., *Trade Adjustment: Worker-Level Evidence*, Q. J. of Econ., 1799, 1799-1860 (2014).

⁴⁰ Congress has attempted to fix this gap, such as in the 2009 and 2015 amendments. However, renewal to these amendments has not been consistent. For example, the 2009 revised provisions expired at the end of 2011 and the program reverted back to its previous version where workers who lost jobs due to offshoring to non-FTA countries were cut off, until the provision was extended again in the 2015 amendment.

⁴¹ U.S. Dep't of Labor, Trade Adjustment Assistance for Workers: Fiscal Year 2011 Report to the Comm. on Fin. of the Senate and Comm. on Ways and Means of the House of Representatives (2011) https://www.doleta.gov/tradeact/docs/AnnualReport11.pdf.

- Increasing participation of civil society, workers, academics, and affected communities in trade negotiation process.
- Implement processes and rules to carry out human rights impact assessments to identify, assess, and address the effects on human rights for all future trade agreements. This impact assessment should include a particular focus on the poverty impact of trade, and should be developed with public participation.
- Develop laws and policies to address the extent of corporate influence in trade policymaking.
- Conduct careful study of the gaps in the current TAA and develop programs to provide adequate assistance to workers and communities displaced by trade.