

Human Rights for Workers in the United States

On this International Human Rights Day 2003, the undersigned human rights and labor rights supporters in the U.S. academic and advocacy communities affirm that workers' freedom of association and rights to organize and bargain collectively are fundamental rights under international human rights law. However, U.S. labor law and its enforcement fail to adequately protect the exercise of these rights by workers in the United States. Government at all levels must enact reforms that will restore in law and in practice workers' full enjoyment of the right to freedom of association.

Workers' Rights Are Human Rights:

- The Universal Declaration of Human Rights states, "Everyone has the right to freedom of peaceful assembly and association," and "Everyone has the right to form and to join trade unions for the protection of his interests."
- The International Covenant on Civil and Political Rights declares: "Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests."
- The International Covenant on Economic, Social and Cultural Rights obliges governments to "ensure the right of everyone to form trade unions and join the trade union of his choice."
- The American Declaration of the Rights and Duties of Man says, "Every person has the right to associate with others to promote, exercise and protect his legitimate interests of a political, economic, religious, social, cultural, professional, labor union or other nature."
- The International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families affirms the right of migrant workers "To take part in meetings and activities of trade unions . . . To join freely any trade union . . . To seek the aid and assistance of any trade union."
- International Labor Organization (ILO) Conventions Nos. 87 and 98 say that "Workers and employers, without distinction whatsoever, shall have the right to establish and . . . to join organizations of their own choosing without previous authorization," and "Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment . . ."
- The ILO's Declaration of Fundamental Principles and Rights at Work says expressly: "All members . . . have an obligation . . . to respect, to promote, and to realize, in good faith . . . the principles concerning the fundamental rights which are the subject of those Conventions, namely: (a) freedom of association and the effective recognition of the right to collective bargaining; . . ."

The United States Falls Short of International Standards:

The United States is committed by ratification or by other obligations related to these human rights instruments, as well as by its own promotion of workers' rights in the global trade arena, to protect workers' freedom of association. However, there is substantial evidence that major features of U.S. labor law and practice fall short of compliance with international human rights standards and create serious obstacles to workers' exercise of their rights:¹

- Millions of American workers are excluded from coverage under laws meant to protect organizing and bargaining rights.
- Employees who seek to exercise rights of association, organizing and bargaining often suffer surveillance, interrogation, and threats of job loss, workplace closure or other reprisals.
- Employees who take leading roles in workplace organizing are often fired or otherwise suffer reprisals because of their associational activity.
- Although such discrimination against workers is unlawful, delays and weak remedies in the U.S. labor law enforcement process invite deliberate violations calculated to destroy workers' organizing efforts at little cost to the violator.
- Immigrant workers are especially vulnerable to violations of their freedom of association.

A Call for Reform

A climate of impunity for workers' rights violations has enveloped labor law and practice in the United States. We must change that climate. Congress, and state and local authorities where applicable, should enact legal reforms and strong enforcement measures to protect workers' freedom of association and to restore the United States to a

¹ For more information, see Human Rights Watch, *Unfair Advantage: Workers' Freedom of Association in the United States under International Human Rights Standards* (2000) (finding that "freedom of association is a right under severe, often buckling pressure when workers in the United States try to exercise it"); Government Accounting Office, *Collective Bargaining Rights: Information on the Number of Workers with and without Bargaining Rights* (GAO-02-835, September 2002) (finding that "32 million civilian workers were without collective bargaining rights under any law, either federal or state" including 5.5 million undocumented workers stripped of remedies for violation of their trade union organizing rights); Inter-American Court of Human Rights, *Consultative Opinion on Legal Status and Rights of Undocumented Migrant Workers* (OC-18/03, San Jose, Costa Rica, September 17, 2003) (declaring, in connection with a petition filed by Mexico challenging U.S. treatment of migrant workers, that migrant workers' rights "must be recognized and guaranteed, independent of his regular or irregular situation in the State of employment . . . [T]he State has the obligation to respect and guarantee human labor rights of all workers, independent of their condition as nationals or foreigners . . . Undocumented migrant workers have the same labor rights that correspond to the rest of workers in the State of employment, and the State must take all necessary measures for this to be recognized and complied with in practice.")

position of leadership by example in affording fundamental associational rights of workers.

Signed:

Roy J. Adams
Chair, Society for the Promotion of Human Rights in Employment
Macmaster University

Paul S. Adler
Professor of Management and Organization
University of Southern California

Muneer I. Ahmad
International Human Rights Clinic
Assistant Professor
Washington College of Law

Elaine Bernard, Ph.D.
Executive Director
Labor and Worklife Program
Harvard Law School

Allida Black
Director and Editor, The Eleanor Roosevelt Papers
Research Professor of History and International Affairs
The George Washington University

David M. Boje, Ph.D.
Robert O. Anderson Chair
Professor of Management
New Mexico State University

Francis A. Boyle
Professor of Law
University of Illinois College of Law
Board of Directors, Amnesty International USA

David M. Brody
Professor Emeritus of History
University of California, Davis

David Cingranelli
Professor of Political Science
Binghamton University, SUNY

Sarah H. Cleveland
Marrs McLean Professor in Law
University of Texas School of Law

Terry Collingsworth
Executive Director
International Labor Rights Fund

Lance Compa
Senior Lecturer
Cornell University
School of Industrial and Labor Relations

Roberto L. Corrada
Professor
University of Denver College of Law

Jane Dolkart
Professor of Law
Southern Methodist University
Dedman School of Law

Matthew W. Finkin
Albert J. Harno Professor of Law
The University of Illinois College of Law

Alvin Goldman
William J. Cafferty Professor of Law
University of Kentucky College of Law

Professor James A. Gross
Cornell University
School of Industrial and Labor Relations

Jeffrey Haydu
Professor of Sociology
University of California, San Diego

Deena R. Hurwitz
Director, International Human Rights Law Clinic
University of Virginia School of Law

David Jacobs
Professor of Economics and Management
Hood College
Frederick, Maryland

John Jost
Associate Professor of Psychology
New York University

Thomas A. Kochan
George Maverick Bunker Professor of Work and Employment Relations
MIT Sloan School of Management
Institute for Work and Employment Research

Carrie R. Leana
Professor of Business Administration and Public Affairs
University of Pittsburgh

Professor Bert Lockwood
Director, Urban Morgan Institute for Human Rights
University of Cincinnati College of Law

John T. Luhman
Assistant Professor of Management
School of Business
New Mexico Highlands University

Beth Lyon
Assistant Professor of Law
Villanova University School of Law

Professor Joanne Martin
Graduate School of Business
Stanford University

Charles McCollester
Director, Pennsylvania Center for the Study of Labor Relations
Professor of Industrial and Labor Relations
Indiana University of Pennsylvania

Ruth Milkman
Professor of Sociology
Director, UC Institute for Labor and Employment
University of California, Los Angeles

Smita Narula
Executive Director
Center for Human Rights and Global Justice
New York University Law School

Bruce Nissen
Director of Research
Center for Labor Research and Studies
Florida International University

Maria L. Ontiveros
Professor of Law
University of San Francisco

Jeffrey Pfeffer
Thomas D. Dee II Professor of Organizational Behavior
Graduate School of Business
Stanford University

Michael H. Posner
Executive Director
Lawyers Committee for Human Rights

Kenneth Roth
Executive Director
Human Rights Watch

Lawrence E. Rothstein, J.D., Ph.D.
Professor of Political Science
Genethics And Public Policy Project
Associate of Charles T. Schmidt, Jr. Labor Research Center
Associate of John Hazen White, Sr. Center for Ethics and Public Service
University of Rhode Island

Margaret Satterthwaite
Research Director
Center for Human Rights and Global Justice
New York University Law School

George Schatzki
Professor of Law
Arizona State University College of Law

James G. Scoville
Professor of Industrial Relations
University of Minnesota

Jim Silk
Executive Director

Orville H. Schell, Jr. Center for International Human Rights
Yale Law School

Clyde W. Summers
Professor of Law
University of Pennsylvania Law School

Marquita Walker
Labor Education Specialist
University of Missouri, Columbia

Marley S. Weiss
Professor of Law
University of Maryland School of Law

David Weissbrodt
Professor of Law
University of Minnesota

Deborah M. Weissman
Associate Professor and Director of Clinical Programs
University of North Carolina School of Law

Burns H. Weston
Bessie Dutton Murray Distinguished Professor of Law Emeritus
Director, The University of Iowa Center for Human Rights

Hoyt. N. Wheeler
Professor of Management
University of South Carolina

Marcus Widenor
Associate Professor
Labor Education and Research Center
University of Oregon

Michael J. Wishnie
Professor of Clinical Law
New York University School of Law

Statement organized by American Rights at Work.