

## **RESOLUTION BY THE NATIONAL LAWYERS GUILD CONDEMNING THE ATTACKS ON THE INDEPENDENT TRADE UNION MOVEMENT AND FREEDOM OF ASSOCIATION IN MEXICO AND THE PROPOSED LABOR LAW REFORM**

On September 1, outgoing Mexican president Felipe Calderón designating an extremely regressive labor law reform proposal for consideration by the Mexican Congress under a new “preferential” fast track process.

As originally proposed, it would have destroyed the independent trade union movement in Mexico by effectively eliminating the already difficult openings through which groups of workers can obtain representation by the union of their choice. Provisions of Calderón’s proposal violated the requirements of International Labor Organization (ILO) conventions 87 and 98 on Freedom of Association and Collective Bargaining, the mandate in Article 2 of the North American Agreement on Labor Cooperation (NAALC) that the parties “provide for high labor standards... and shall continue to strive to improve those standards,” as well as many other international covenants protecting freedom of association:

1. American Convention on Human Rights: Article 16
2. Universal Declaration of Human Rights: Articles 20 and 23
3. International Covenant on Economic, Social and Cultural Rights: Article 8
4. International Covenant on Civil and Political Rights: Article 22
5. Declaration of Lima. Interamerican Democratic Charter: Article 10

After major protests in Mexico and letters from prominent international organizations including the National Lawyers Guild (NLG), the most egregious language violating freedom of association was removed – along with provisions requiring secret ballot elections and transparency.

The proposed legislation that is now under consideration would severely undercut job security by removing existing protections for workers that limit subcontracting, temporary and short-term contracts. In addition, it would limit the liability of employers for unjustified discharge, limiting back pay to one year and further penalizing workers for delays in legal proceedings for reinstatement that are beyond their control. It has been estimated that the length of such proceedings average five years.

### **Background:**

The attempt to force approval of this recycled proposal is particularly egregious when viewed in context. It has been estimated that some 90% of union contracts in Mexico are protection contracts, where an employer selects the union that it prefers and workers have no choice. The widespread use of such contracts and their violation of fundamental union rights was raised by IndustriALL, then International Metalworkers’ Federation, in complaint no. 2694 submitted to the ILO in 2009.

Recommendations put forward by the Committee on Freedom of Association and approved by the ILO’s Governing Body in the spring of 2011 called on the Mexican government to examine the issue of Protection Contracts. Specifically, the ILO called on Mexico to investigate and report back to the Committee regarding: “(1) the questions relating to the trade union security clauses, “exclusion clauses”, which were declared unconstitutional by the Supreme Court and which may give rise to the kind of situations contemplated in the complaint; (2) questions relating to the minimum representativeness of trade unions in order to bargain collectively; and (3) the alleged lack of impartiality of the conciliation and arbitration boards (JCAs) and the allegedly excessive length of their proceedings.”

The Committee stated that it “firmly expects that a dialogue will take place with the most representative national workers’ and employers’ organizations, as well as the six organizations that are complainants in this case or that have supported it.” It also stated clearly that it “trusts that legislative

and other measures will be taken in the near future to strengthen protection against anti-trade union practices in breach of collective bargaining principles.”

Instead of social dialogue, the executive branch of the Mexican government intensified its crackdown. The Initiative of Felipe Calderón, far from encouraging job creation and the stimulation of the internal market, will cause the instability of existing jobs and the generation of even more precarious work than what already exists in the informal sector in Mexico.

Mexico’s few independent and democratic unions carry out a heroic struggle for workers’ rights in the face of violent repression, often with support from other social movements. But, given the pro-employer and repressive character of the both the Calderón government and the recently elected government of Enrique Peña Nieto, it is unlikely that they can win those rights alone and have requested international solidarity.

Over the past several years, members of the National Lawyers Guild and its International and Labor and Employment Committees have, through the International Labor Justice Working Group (ILJWG), established close relationships with their legal counterparts in Canada and Mexico, and have worked together to defend the Freedom of Association of workers in all three countries, working in coordination with the Tri-National Solidarity Alliance (TNSA).

ILJWG members participate on the steering committee of TNSA and many other Guild members have been involved in a variety of ways. NLG members have assisted our counterparts in CALL who have undertaken the responsibility of coordinating the NAALC cases that were filed on behalf of SME in the US and Canada. Most recently, we have joined in opposition to the labor law reform proposal described above.

**THEREFORE BE IT RESOLVED** that the National Lawyers Guild strongly condemns the proposed labor law reform as well as the ongoing attacks against Mexican unions and labor rights, and commits to continuing to collaborate with the Tri-National Solidarity Alliance (TNSA), unions and social movement around the world that working are in solidarity with Mexican unions in resisting the attempts by employers, corrupt unions, and the Mexican government to destroy the independent trade union movement in Mexico and deprive workers of rights established in the Mexican constitution, Federal Labor Law and ILO conventions.

We further resolve to continue our work with attorneys, unions and social movements in Mexico, Canada and the United States and to mobilize our membership to support actions called by the Tri-national Solidarity Alliance (TNSA) to ensure that Freedom of Association of workers in all three countries is respected.

This resolution will be implemented by the International Labor Justice Working Group in coordination with the International and Labor and Employment Committees. Contact: Robin Alexander 412-471-8919