

RESOLUTION BY THE NATIONAL LAWYERS GUILD CONDEMNING THE ATTACKS ON THE INDEPENDENT TRADE UNION MOVEMENT AND FREEDOM OF ASSOCIATION IN MEXICO

Following the election in 2006 of Felipe Calderón, workers' rights have been under serious attack. Four cases exemplify the administration's comprehensive attack on Mexican labor unions, and constitute clear violations of international labor and human rights.

In October 2009, the Calderón government issued a decree liquidating the state-owned Light and Power Company of Central Mexico, dispatched Federal police to seize all facilities, fired 44,000 electrical workers, and refused to recognize the elected leaders of their union, the Mexican Electrical Workers Union (SME). Since that time, the SME has pursued various courses of action to reclaim their jobs, freedom of association and right to collective bargaining. Although 93 workers lifted their hunger strike on July 27 based on the commitment by the Mexican government to begin a real dialogue, meaningful discussions have not taken place. The Union's demands that workers be ordered reinstated by the successor employer remain pending before the Federal Labor Board and a legislative proposal to create a new entity that would replace the Light and Power Company of Central Mexico remains before the Mexican Congress. Most recently, the government has failed to take action to recognize the officers elected by an overwhelming vote in July. Instead, it issued arrest warrants against General Secretary Martin Esparza and another national leader, along with their legal counsel, based on spurious charges regarding actions purportedly occurring two years earlier.

In February 2010, a Mexican appellate court gave the Green light to the Calderon government to terminate 1,200 copper miners and to break a tree-year old strike at Grupo Mexico's Cananea mine in northern Mexico. The Mexican Miners and Metal Workers Union (SNTMMRM) launched the strike 2007 and occupied the mine to protest the company's refusal to remedy extreme safety hazards. The court's decision threatens to effectively eliminate the right to strike in Mexico. It also set the stage for the government's invasion of Cananea, dislodging the striking workers, attacking them in their local union headquarters and closing it down. As if that weren't enough, they also dislodged families of 65 miners killed several years ago at the Pasta de Conchos mine, where an explosion took their lives and Grupo Mexico and the government have yet to recover the bodies. The families had been camped out by the mine demanding that the federal government and Grupo Mexico return their husband's bodies for burial. The army remains in both mines and government forces continue to patrol both cities.

Since April 1, 2008, the Secretary of Labor has on two occasions denied recognition ("la toma de nota") to Los Mineros' General Secretary Napoleón Gómez Urrutia. In contrast, new mining unions that have challenged representation by Los Mineros in various work places have received registrations with no difficulty. On June 7, 2011 the Secretary of Labor and Social Welfare announced that the CTM in Sonora and Grupo México had signed a collective bargaining agreement that would cover labor relations at the Cananea mine, although the contract with Los Mineros was still in effect. In July, 2011 an appellate court found that the strike was illegal. The matter is now back before the Labor Board which is expected to issue a determination in accordance with the court's decision and instructing workers that they have 24 hours within which to return to work or their employment relationship with the company will be terminated.

However, Los Mineros' General Secretary Gómez Urrutia has been successful in obtaining dismissal of the succession of criminal charges against him and has announced that he will be returning to Mexico. In addition, the Supreme Court has issued an encouraging decision in a registration case involving issues similar to those facing the leadership of Los Mineros, and a favorable decision is anticipated later this year.

In early 2010, the state-owned petroleum company PEMEX moved to undermine a victory by technical and professional employees to organize an independent union, UNTyPP. Although the Mexican Secretary of Labor registered the new union's right to represent the professional and technical unit in December 2009, PEMEX immediately ordered workers to sign two documents: one calling for cancellation of the union's registration, and the other resigning from the union. Workers refusing to sign the document have been terminated, with many being violently removed from their work stations. Throughout the organizing

campaign, UNTyPP leaders received death threats, physical assaults, and other acts of intimidation. Some fifty were discharged last year and the assault on the union continues.

Francisco Ríos Piñeyro, Secretary of Organization was moved from his workplace to a part of the country where there is a high level of violence and where he is forced to work in isolation; Moisés Flores Salmerón was fired within days of his election as General Secretary of Local 1 in Veracruz; and Silvia Ramos Luna, who was reinstated as the result of lengthy legal proceedings was fired a second time on March 28, 2011. The membership of UNTyPP is growing despite PEMEX' failure to recognize and deal with the union or turn over dues and its threats to discharge workers who affiliate with the union.

On March 18 2010 Mexico's right wing National Action Party (PAN) presented a proposal for labor law reform that would virtually eliminate the right to strike, permit employers to evade obligations under the law by legalizing sub-contracting, replace wages and benefits base on seniority with a merit-based system, and undercut various other labor protections.

The following March, the Institutional revolutionary Party (PRI) presented a similar proposal and sought to have approved through a "Fast Track" process. Both pieces of legislation would limit freedom of association, collective bargaining and the right to strike, eliminate the present strong protections on job security by permitting sub-contracting and temporary employment and place a limit of six months on back pay in cases of improper dismissal, despite the fact that legal proceedings often take far more time. The PRI and PAN have indicated that their proposals will be re-introduced in September when the Mexican Congress reconvenes, if not in an earlier special session.

These attacks are simply illustrative; over the past years, many other equally egregious and flagrant violations of workers' rights have been perpetrated through the misuse of the law and the courts, the police and the army. The Mexican government, acting in complicity with business, has been continually and violently contravening Mexican law as well as international labor conventions. Mexico not only violates the guarantees in the Mexican Constitution's Article 123 and the Federal Labor Law, but also international labor standards, above all International Labor Organization Conventions 87 and 98. As has been well documented by a variety of independent organizations, workers are routinely denied the right to form or to join unions of their own choosing, either being corralled into undemocratic government unions, company unions, or gangster unions that sell "protection contracts" to employers.

The Secretary of Labor and Federal and Local Labor Boards function as the employers' representatives in working to suppress unions and prevent strikes. The government routinely refuses to recognize independent labor unions, prevents duly elected officers from taking office, and denies workers' their right to strike. The Labor Boards -- made up of representatives from the government, government-dominated unions, and the employers -- make it virtually impossible for independent unions to win elections or to obtain reinstatement when activist members are fired. Employers and the government also resort to criminal charges, filing trumped up charges against union leaders, prosecuting and jailing them as a way to keep them from carrying out their union duties. Workers are not only fired and expelled from their unions, but also threatened and beaten with impunity.

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 Calderón government, it is unlikely that they can win those rights alone and have requested international solidarity.

An international gathering of trade union representatives, social movement partners, and attorneys in Toronto on June 20, 2010 declared its solidarity with independent Mexican unions, and committed to establishing a mechanism of international coordination to carry out further actions. A few days later in Detroit, the US Social Forum affirmed support for the Toronto Declarations and committed to raise awareness in the US about the ongoing attacks against Mexican unions and labor rights and to denounce the violation of labor rights and the virulent attack on labor organizations in Mexico including the Miners and Electrical Workers.

These meetings resulted in the formation of the Tri-National Solidarity Alliance (TNSA). 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.

Two representatives of the ILJWG are on the steering committee of TNSA and many other Guild members have been involved in a variety of ways:

- Approximately a hundred letters to the Mexican Supreme Court regarding a case challenging the Mexican government's power to interpret trade union by-laws; a full amicus brief was subsequently filed. While the case involved los Mineros, it is of major importance to all democratic unions. As noted above, a related decision was just handed down and a decision in this case is expected imminently.
- As a result of the proposal made by the Mexican participants at the workshop co-sponsored by the ILJWG, LEC and IC last year, we generated 46 letters from a variety of human rights and legal organizations to the Representative in Mexico of the UN High Commissioner for Human Rights, leading to fruitful discussions.
- In February, we responded to the call by four Global Union Federations and the ITUC to participate in Global Days of Action in solidarity with the independent trade unions in Mexico. In the US there were demonstrations or delegations in at least 13 cities, in the four largest cities in Canada, and in Mexico there were 27 different actions following the massive demonstration on January 31st. In all, more than 50,000 trade unionists and their community allies around the world, in 40 countries on five continents, strongly denounced the attack on independent trade unions in Mexico and on the freedom of association in Mexico. Guild members participated in many of these and took the lead in organizing the event in Denver, CO.
- As part of our effort to raise awareness, we have also organized several tours of prominent national leaders of Mexican unions. In late March, a national leader of Los Mineros traveled to New York and New Orleans where he spoke at labor conferences and law schools. A national leader of SME spoke in Pittsburgh on April 4, sharing information about the assault on workers' rights in Mexico and showing solidarity with US workers and students who are fighting against cuts and the attack on fundamental labor rights.
- NLG members arranged for a Mexican human rights attorney to speak as at the AFL-CIO's LCC breakfast last April regarding the proposal for labor law reform.
- One NLG member prepared and helped to present the opening witness testimony and another served as a judge on the International Tribunal on Trade Union freedom on April 28.
- NLG members have assisted our counterparts in CALL who have taken the responsibility of coordinating the NAALC cases for the SME that will be filed in the coming months in the US and Canada.

THEREFOR BE IT RESOLVED that the National Lawyers Guild strongly condemns the ongoing attacks against Mexican unions and labor rights, endorses the Toronto Declaration 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 that are 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.

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