



Workers' Rights and Economic Justice in the United States:

A HUMAN RIGHTS PERSPECTIVE

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BUILDING A PEOPLE-CENTERED MOVEMENT



INTRODUCTION

One of the root causes of the growing economic inequality and insecurity in the United States today is the violation of the human rights to decent work and to social assistance if one is unable to work. These rights are not only essential to the survival of individuals and their families, they are also necessary in a society where the full enjoyment of many other rights, such as the right to an adequate standard of living, the right to housing, the right to health, and the right to fully participate in the political and cultural life of one's community, is dependent upon the fulfillment of the right to decent work. Securing workers' human rights is therefore fundamental to a society based on fairness and respect for human dignity.

The human right to decent work protects everyone's right to fair wages and equal pay for equal work, to safe and healthy working conditions, and to days of rest. It recognizes the right of everyone to form and join trade unions that are able to function freely. It upholds the right to opportunities to gain one's living through freely chosen

work. And if one is unable to work due to disability, illness, age, or the lack of jobs, it ensures that everyone has the right to social security. Everyone, regardless of one's race, nationality, gender, sexuality, age, religion, or other forms of difference, has the right to enjoy decent work without discrimination of any kind.

The right to decent work matters to everyone.

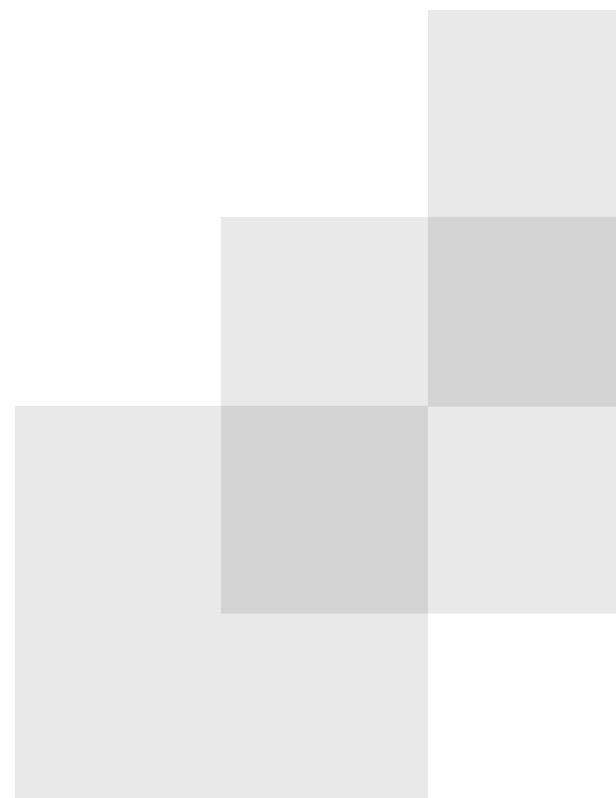
- They matter to women, who earn 77 cents for every dollar earned by men, which violates their human rights to equal pay for equal work.²
- They matter to people of color, who experience significantly higher unemployment rates than whites and receive unequal pay for equal work, which violates their human rights to protection against unemployment and to non-discrimination.
- They matter to domestic workers and farmworkers, who are excluded from the 1935 National Labor Relations Act, which violates their human rights to

join a union and to days of rest.

- They matter to fast food and restaurant workers, who do not receive fair wages or paid sick days, which violates their human rights to just compensation and to healthy working conditions.
- They matter to lesbian, gay, bisexual and transgender people, who experience high rates of workplace discrimination and harassment, and whose human rights are violated by the absence of decent working conditions and explicit non-discrimination protections.
- They matter to people with a criminal record, who face severe discrimination in securing jobs, which, due to persistent racial profiling in the criminal justice system, also disproportionately impacts people of color; this violates their human right to freedom from racial discrimination.
- They matter to union members in the misnomer “right to work”³ states who are forced to organize under difficult conditions where union members must subsidize non-members, which violates their right to a freely functioning union and interferes with their right to freedom of association.
- They matter to all people who want to live in a society where everyone is able to enjoy an adequate standard of living, health, and well being in a fair and prosperous economy.

Violations of the right to decent work widen economic inequality and render people vulnerable to other human rights violations, such as the denial of the right to an adequate standard of living. An estimated 46 million people currently live in poverty in the United States. Despite its vast wealth, the U.S. ranks first among developed countries for the highest income inequality gap between its rich and poor.⁴ This inequality gap has grown drastically in the last three decades: tax breaks for top income

brackets and corporations have allowed executives to bargain for higher salaries while rollbacks on workers’ rights and cuts to social assistance programs have pushed millions of middle- and working-class families further into poverty. Over these same thirty years, CEO compensation has grown 725 percent while the compensation of private-sector workers has grown only 5.7 percent.⁵ Women, people of color, recent immigrants, youth, and lesbian, gay, bisexual, and transgender people – those who have been historically excluded from categories of citizenship, and even humanity – bear the brunt of this widening economic inequality. The intersections of these identities, e.g., Black women or transgender immigrant youth, compound people’s vulnerability to economic human rights violations.



0.61

Black women earn 61 cents and Latina women earn 57 cents for every dollar paid to white men.⁶

20%

LGBT youth represent 20 percent of the youth homeless population, while they constitute only five percent of the general youth population.⁸

46%

46 percent of Black children under age six live in poverty, compared to 14 percent of white children.⁷

4x

Transgender people of color experience unemployment rates four times greater than the national unemployment rate.⁹

This paper positions workers' rights within a human rights framework to demonstrate how an economic, social, and cultural rights lens can effectively advance economic justice in the United States.

In the most recent national survey on human rights attitudes and knowledge in the United States, 63 percent of respondents believed that poor people face routine discrimination. Yet in the same study, it was found that only eight percent of adults and four percent of young people were aware of the Universal Declaration of Human Rights.¹⁰ These findings suggest that in a context of increasing economic inequality, many people recognize discrimination, but few are equipped with the knowledge to identify economic human rights violations or harness the power of the human rights framework to hold violators accountable.

This paper positions workers' rights within a human rights framework to demonstrate how an economic, social, and cultural rights lens can effectively advance economic justice in the United States. First, it broadens

dominant perceptions of civil rights in the U.S. by articulating the full spectrum of human rights and the components of the global human rights framework. Second, it outlines international human rights laws and legal instruments that protect workers' rights and economic, social, and cultural rights. Third, it provides a brief historical context to the continued discrimination and exclusion of certain groups from workers' rights protections. Fourth, it highlights examples of grassroots movements that successfully employ the human rights framework to hold corporations and government accountable to the right to decent work. And last, it outlines concrete steps that governments, corporations, and committed people can take to help realize workers' human rights here at home.

FROM CIVIL RIGHTS TO HUMAN RIGHTS: EMBRACING THE FULL SPECTRUM OF RIGHTS

A common perspective of rights in the United States views:

- Rights as civil and political rights
- Workers' rights as granted by one's government
- Food, housing, healthcare, and education as government handouts or entitlements
- Poverty and economic inequality as a result of individual failure
- Human rights as foreign and unnecessary in the United States

A human rights perspective views:

- Rights as civil, political, economic, social, and cultural rights
- Workers' rights as economic rights that must be protected by one's government
- Food, housing, healthcare, and education as governments' human rights responsibilities
- Poverty and economic inequality as injustices indicative of human rights violations
- Human rights as universal and necessary for freedom and dignity everywhere

In contrast to more dominant notions of rights in the United States, a human rights perspective recognizes the inherent rights that people need to live freely and with dignity and holds governments responsible to respect, protect, and fulfill these rights. Enshrined in the Universal Declaration of Human Rights (UDHR) of 1948, the full spectrum of rights – civil, political, economic, social, and cultural rights – are deemed universal, inalienable, indivisible, and interdependent. Human rights are universal because they belong to all people, everywhere, by virtue of their humanity; they are inalienable, because regardless of where people are born or reside, no government or individual can take away these rights; they are indivisible because the full enjoyment of any right requires that all components of that right be fulfilled; and they are interdependent because the fulfillment of one right depends on the realization of the others, and the violation of one right jeopardizes others.



It's hard – or even impossible – to go to school, to work, to vote, to keep a family together, if you don't have food to eat, health care for body and mind, or a home to live in."

-Maria Foscarinis

Yet, nearly 65 years after the proclamation of the UDHR, with its clear articulation of workers' rights and economic, social, and cultural rights, many labor rights and anti-poverty organizations in the United States limit their advocacy to civil rights terms at the national level. Civil rights strategies confined to the national arena are ill equipped to confront the challenges of our globalizing economy, and they have proven themselves inadequate in uniting people across differences in race, gender, class, sexuality, ability, age, and citizenship and empowering people who continue to be excluded or unprotected under U.S. law.

For communities struggling to secure workers' rights and economic justice in the U.S., the utilization of the human rights framework holds immense potential. Deploying the "human rights framework" involves engagement with one or more of the following components: 1) a belief that all human beings, everywhere on Earth, are born equal in dignity and rights; 2) international laws that articulate shared ethical principles rooted in what we as individuals and communities need to live with dignity and equality; 3) a global system of courts, councils, and legal mechanisms that monitor and enforce these laws; 4) advocacy methods and strategies that empower those most directly affected to participate in the defense and realization of their rights; and 5) advocacy networks of organizations and individuals that promote human rights and actively hold governments, corporations, and other institutions accountable to human rights standards.

INTERNATIONAL HUMAN RIGHTS LAWS AND INSTRUMENTS: RECLAIMING ECONOMIC, SOCIAL, AND CULTURAL RIGHTS IN THE UNITED STATES

For over three millennia – from the Code of Hammurabi, the Analects of Confucius, the Bible, the Koran, the Magna Carta, to the U.S. Bill of Rights – human societies have developed rules outlining how people should treat one another and the responsibilities they share in relationship to the common good. In the wake of the immense human suffering of World War II and amidst rising calls for social and economic justice by grassroots groups and decolonization movements around the globe, the newly created United Nations established a Commission on Human Rights to draft a declaration of rights for humankind. While not a perfect reflection of people's demands, the Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly on December 10, 1948. As the founding document of modern human rights, the UDHR has influenced the content of more than 80 international human rights treaties, inspired numerous national constitutions, and is the most widely translated document in the world.

The UDHR contains 30 articles that articulate the five pillars of human rights: political, civil, economic, social, and cultural rights. Economic, social, and cultural rights are articulated in Articles 16 and 22-27, which recognize everyone's human rights to:

- 16) Marriage and family
- 22) Social security
- 23) Work, fair wages, and unions
- 24) Rest and leisure
- 25) Standard of living adequate for food, shelter, clothing, healthcare, and social services
- 26) Education
- 27) Participation in the cultural life of one's community.

Workers' rights are outlined in Articles 23 & 24:

Article 23

- 1) The right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment
- 2) The right to equal pay for equal work
- 3) The right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection
- 4) The right to form and to join trade unions for the protection of his interests

Article 24

The right to rest and leisure, with a reasonable limitation of working hours and periodic holidays with pay

The UDHR is a declaration that is not enforceable by law, but it was designed to be a foundation for the development of international human rights law, a model for new and existing nations, and a tool that oppressed and marginalized people could use at local, national, and global levels in their struggles for freedom and dignity. Following the proclamation of the UDHR, early efforts to codify human rights into international law were confronted with severe geopolitical tensions at the dawn of the Cold War. Western capitalist countries, such as the United States, and other colonial powers stressed the supremacy of civil and political rights, such as the rights to freedom of speech, thought, and religion, and the right to vote. Socialist countries and many in the Global South emphasized the centrality of economic and social rights such as workers' rights and the rights to housing, education, and an adequate standard of living. Faced with such stark ideological differences and the threat of failing to establish a foundation for future human rights law, the full spectrum of human rights enshrined in the UDHR was fatefully divided into two separate treaties: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Together, the UDHR, ICCPR, and ICESCR comprise the International Bill of Human Rights.

While the United States often shames other governments for their human rights records in the international arena, the U.S. government only recognizes a select group of civil and political human rights domestically and frequently violates its own people's economic, social, and cultural rights. The U.S. has signed and ratified the ICCPR, but has only signed the ICESCR. As a signatory to the ICESCR, however, the U.S. must refrain from acts that defeat the object and purpose of the treaty. By refusing to ratify the ICESCR, the U.S. weakens its ability to

promote human rights abroad, as violators can easily point to the U.S.'s own preference of remaining legally unaccountable to its people's rights to decent work, education, housing, social security, and healthcare, among others. Furthermore, of the international human rights treaties that have gone into effect and specifically protect vulnerable groups from economic, social, and cultural rights violations, the U.S. has ratified only one:

Intl. Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

Intl. Convention on the Elimination of All Forms of Discrimination Against Women

Intl. Convention on the Protection of the Rights of All Migrant Workers and their Families

Intl. Convention on the Rights of the Child¹¹

INTERNATIONAL MECHANISMS FOR HOLDING GOVERNMENT RESPONSIBLE

Although the U.S. has ratified only a limited number of human rights treaties, its approval of the ICCPR and the ICERD provides opportunities for domestic non-governmental organizations (NGOs) and communities to hold the U.S. accountable to several workers' rights standards.¹² For example, Article 8 of the ICCPR guarantees that no one shall be held in slavery or required to perform forced labor. Also, Article 5(e) of ICERD prohibits discrimination based on race, color, or national and ethnic origin, to (i) rights to work, free choice of employment, and favorable conditions and pay, (ii) the right to form and join trade unions, and (iv) the right to public health, medical care, social security, and social services.¹³

The legal strategies of many U.S. social movements seeking economic justice have been limited due to the UDHR's lack of legal enforceability and U.S. ratification of treaties that primarily protect only civil and political rights. However, the recent development of the Universal Periodic Review (UPR) process in 2006 has opened up new political opportunities for groups seeking to hold the U.S. accountable to economic, social, and cultural rights at the international level. The UPR involves a review of the overall human rights records of all countries that are members of the United Nations, including the United States.¹⁴ In addition to a government's official report on its human rights record, NGOs can submit alternative reports to the United Nations Human Rights Council to be considered as part of the review process. These "shadow" reports provide crucial on-the-ground perspectives that help widen the scope of the limited human rights narrative presented by the U.S. Government. Because the review considers a country's human rights obligations set out in the UDHR, in addition to the human rights treaties the country has accepted as law, NGOs can submit reports on the United States' economic, social, and cultural rights record. For example, in 2010, the U.S. Human Rights Network brought together social justice and other human rights groups based in the United States to coordinate participation in the UPR process. As part of its strategy, the Network emphasized the need for groups to include issues of economic, social, and cultural rights in their reports. As a result, over half the reports submitted to the United Nations Human Rights Council reported directly on economic, cultural and social rights issues and others included them as they related to their topic. This strategic emphasis placed such significant pressure on the U.S. Government that its representatives felt the need to make a statement on the administration's position on economic, social, cultural rights in the United States.¹⁵

In addition to the UPR process, local organizations seeking to pressure the U.S. Government from the international arena can also engage with United Nations Special Rapporteurs, who work under a mandate from the United Nations Human Rights Council to investigate and report on specific human rights themes. For example, groups such as Take Back Our Land, the Coalition of Immokalee Workers, and the National Law Center on Homelessness and Poverty have collaborated with Special Rapporteurs on Adequate Housing, Food, and Extreme Poverty, respectively, to identify specific human rights violations in the United States. With both of these strategies, local groups can utilize mechanisms within the United Nations system to identify human rights violations and put pressure on the U.S. Government from the international arena.

INTERNATIONAL MECHANISMS FOR HOLDING CORPORATIONS ACCOUNTABLE

Governments are not the only violators of human rights, particularly when it comes to workers' rights to fair wages, decent working conditions, and the right to join a union. United Nations Special Representative John Ruggie¹⁶ describes how the "dramatic worldwide expansion of the private sector... coupled with a corresponding rise in transnational economic activity" in the late 1990s and early 2000s has "heightened social awareness of businesses' impact on human rights."¹⁷ The rapid growth of corporate globalization has had a devastating impact on workers' rights in the United States and around the world. As a result of what some describe as the global "race to the bottom," workers' rights in the U.S. are deteriorating as 1) corporations move production to areas where governments cut labor standards, environmental regulation, and corporate taxes to attract business, 2) corporate consolidation exerts immense downward pressure on workers' wages throughout corporate supply chains, and 3) U.S. labor protections passed during the manufacturing era become increasingly ineffective in service sectors now central to the U.S. economy. Recent United Nations initiatives such as the "Protect, Respect and Remedy" Framework of the Guiding Principles on Business and Human Rights (i.e., Ruggie Framework) provide an important foundation for corporate accountability to human rights.

The Ruggie Framework is comprised of three pillars:¹⁸

1

.....

State duty to protect against human rights abuses by third parties, including business enterprises, through appropriate policies, regulation, and adjudication

2

.....

Corporate responsibility to respect human rights, which means that business enterprises should act with due diligence to avoid infringing on the rights of others and to address adverse impacts with which they are involved

3

.....

Greater access by victims to effective remedy, both judicial and non-judicial

While the global system of human rights legal mechanisms are important for articulating government responsibility and corporate accountability for human rights, at this historical moment, they lack the teeth to enforce these principles, especially against powerful states like the United States. However, in addition to these international legal mechanisms, the human rights framework also provides people with the knowledge that everyone has human rights, regardless of whether or not their government has ratified a specific treaty. It supplies methods that empower people to defend their human rights from the grassroots and advocacy networks that connect and strengthen local movements. In the United States today, organizations such as the National Economic and Social Rights Initiative, the Vermont Workers' Center, and the Poor People's Economic Human Rights Campaign, as well as everyday people who are excluded from workers' rights protections, are increasingly using the human rights framework in creative ways to assert their economic, social, and cultural rights. By employing human rights education, building diverse broad-based alliances, and organizing targeted voter and consumer campaigns, local communities impacted by economic injustice are effectively creating people-powered mechanisms of enforcement to hold governments and corporations accountable to universal human rights standards.

WORKERS' RIGHTS IN THE UNITED STATES: A HISTORY OF DISCRIMINATION AND EXCLUSION

In order to understand contemporary workers' human rights struggles in the United States, we must first recognize their roots within a broader history of discrimination, which has continually excluded people from equal rights protections in order to maintain a population of exploitable workers. A historical perspective underscores how the people most vulnerable to economic human rights violations today – people of color, women, Indigenous peoples, poor people, and lesbian, gay, bisexual, and transgender people, among others – reflect the same groups who were initially excluded from the U.S. Bill of Rights. Consideration of workers' rights history in the United States is important because it reveals that economic injustice today is the result of structural barriers created by centuries of racism, sexism, xenophobia, homophobia, transphobia, and other forms of dehumanization, and exposes the false notion that economic inequality is simply the result of individual failure in a neutral marketplace. Specifically, slavery, convict leasing, discriminatory and outdated labor laws, immigrant labor importation programs, and human trafficking have been the principal means of creating categories of people who can be more easily exploited for cheap labor and denied their human rights to work and live in dignity.

Slavery and Convict Leasing: While slavery is rightly recognized for its role in shaping modern U.S. race relations, its economic roots are often overlooked: African slavery was established to fulfill a desire for cheap and exploitable labor, not solely out of a desire for racism. Racism was necessary in justifying and maintaining slavery because it spread the belief that Blacks were not fully human (three-fifths, to be exact) and could therefore be subjected to forced labor. The abolition of slavery was codified in the 13th Amendment to the U.S. Constitution, which effectively made slavery illegal, “except as punishment for crime.” Although slavery was abolished, the desire for a cheap, exploitable workforce remained. Within three years of emancipation, convict leasing – whereby incarcerated people were rented out by the state to perform unpaid physical labor – developed in Georgia and soon spread throughout the South. During the fifty-year era of convict leasing, the nature of incarceration changed drastically: “sentences grew longer, the population became younger and almost entirely black, and the number of people sentenced soared.”¹⁹ Convict leasing not only turned incarceration into the primary means of re-enslaving Blacks,²⁰ it also confirmed to those with power and capital that in the post-slavery era, discriminatory laws could help maintain a supply of ideal workers: people who are physically exploitable and politically powerless. During this era, these ideals were held in racial and gendered terms, among others: as Black men were denied political rights and channeled into incarceration to provide cheap labor, women – and Black women in particular – were also legally excluded from political participation and restricted to the domestic sphere to provide labor for little or no pay.

U.S. Labor Law Exclusions: One of the means through which a supply of exploitable workers was maintained after the era of slavery and convicting leasing was the codification of racial and gender discrimination in founding U.S. labor statutes. As part of what became known as the “Second New Deal,” Congress passed the National Labor Relations Act in 1935, which protected the rights of private sector employees to join trade unions and participate in collective bargaining, and the Fair Labor Standards Act in 1938, which set maximum workweek hours and a national minimum wage. However, in order to pass these bills, the support of Southern Democrats was secured at a very high price: the guaranteed exclusion of agricultural and domestic workers. In practice, with roughly 65 percent of African Americans working as farmworkers or domestics at that time,²¹ U.S. labor law effectively excluded Black men and women and prevented them from organizing for better wages and working conditions.

Labor Importation: In the early 1940s, as large numbers of Black workers sought higher wages in wartime industries in the North, employers in the South found themselves without their usual supply of exploitable workers. Instead of raising wages to attract workers, they turned to what had previously been a West Coast strategy of securing cheap labor: the importation of immigrants of color. While states like California had long relied on Native American forced labor and the importation of immigrants to maintain a steady supply of powerless workers – including waves of Chinese, Japanese, Mexican, and Filipino workers – it was not until WWII that the federal government implemented labor importation of immigrants on a national scale. Although the Labor Importation Program was designed to be a temporary wartime measure, the immense profits led to its extension well beyond the end of WWII. By the time the West Coast bracero²² program was terminated in 1964, more than 4.5 million contracts had been granted to Mexican nationals.²³ In the East, 66,000 workers from Jamaica, Barbados, and the

Bahamas were leased to the U.S. under the British West Indies (BWI) labor program between 1943 and 1947.^{24, 25} The BWI program was extended in various forms until 1977, and evolved into the current H-2A visa program, which provides agricultural employers with temporary immigrant “guest workers,” and the H-2B program, which provides guest workers to other non-agricultural industries.

Human Trafficking: Rooted in a long history of human slavery, incarceration, and importation, today’s immigrant guest workers and immigrants without documentation fulfill the current demand for exploitable and politically powerless workers. Guest workers – who are overwhelmingly workers of color from Latin America and Southeast Asia – often incur steep recruitment fees and are legally prohibited from switching employers in the U.S., which render them vulnerable to debt bondage. Guest workers and undocumented workers, as well as formerly incarcerated workers and other politically disenfranchised people, are susceptible to human trafficking – the legal term for modern forms of slavery, debt bondage, and forced labor. While sex trafficking has rightly garnered significant public attention, 82 percent of foreign adult victims of human trafficking in 2010 were trafficked for manual labor, and nearly 60 percent of them were men.²⁶ It is no coincidence that the U.S. industries with the highest rates of human trafficking – agricultural labor and domestic labor – are the industries whose workers continue to be excluded from workers’ human rights protections and denied the right to form a union. Similarly, sex trafficking persists because it operates in an industry whose workers – primarily women and transgender women of color – are dehumanized, criminalized, and excluded from labor rights protections, which discourages them from reporting wage theft, rape, and forced labor.

Outdated Labor Laws, Globalization, and the Shift from Manufacturing to Service

Industries: If we are to understand slavery as an extreme along a spectrum representing the absence of workers’ human rights,²⁷ the changing nature of the U.S. economy has pushed more workers towards this extreme by excluding them from labor rights protections in practice. As industrial production has been transferred to overseas locations in this era of corporate globalization, the U.S. economy has experienced a drastic shift from a manufacturing-based economy to a service-based economy. However, when U.S. labor statutes were passed in the 1930s, manufacturing was the foundation of the U.S. economy and labor laws were designed around factories’ high worker-to-employer ratios and fixed worker schedules. As the U.S. has shifted to a service-based economy, however, labor laws have not kept up. Today, these laws not only continue to exclude agricultural and domestic workers, they also fail to protect the human rights of workers with tipped wages, flexible schedules, and temporary work periods in settings with low worker-to-employer ratios – the hallmarks of the modern service industry. As a result, the number of workers excluded from labor rights protections in practice is rapidly growing,²⁸ and now includes tipped-wage workers, day laborers, taxi drivers, workfare workers,²⁹ undocumented workers, and workers in “right to work” states. Additionally, in 29 states, employers can legally discriminate against or fire employees based on their sexual orientation, and in 33 states, employers can fire employees based on their gender identity. This renders lesbian, gay, bisexual, and transgender people especially vulnerable to harassment at work,³⁰ termination for union organizing, and overall economic instability.

A human rights framework is powerful because it asserts that people have the right to organize and the right to decent wages and working conditions by virtue of their humanity, even if they are excluded from these human rights by law or in practice. The principle of universality establishes that human rights are inherent and belong to all people everywhere. Therefore, the realization of these rights is also a matter of people's willingness to defend them and their ability to hold violators accountable.

FROM EXCLUSION TO MOBILIZATION: DEPLOYING THE HUMAN RIGHTS FRAMEWORK IN THE UNITED STATES

The human rights framework provides movements a common ground for building broad alliances and new strategies and mechanisms of holding corporations, governments, and private actors accountable to human rights standards. While the following examples of human rights activism by low-wage workers in the food industry represent just a small fraction of advocacy defending the human right to decent work, they help demonstrate how grassroots movements are asserting workers' human rights and advancing economic justice in the United States.



CIW: Human Rights Education through Popular Theater | Photo credit: Laura Emiko Soltis © 2013

Farmworkers: The Coalition of Immokalee Workers (CIW) The human right to decent work guarantees that all people have the right to form trade unions. However, because farmworkers are excluded from most U.S. labor statutes, they are denied their human right to join unions and bargain collectively with their employers.³¹ This human rights violation has made it difficult for farmworkers to defend their rights to fair wages and safe working conditions. The 2000-2001 National Agricultural Workers Survey found that farmworkers' average income was \$10,000-\$12,500³² and only eight percent of workers had an employer health plan, despite their dangerous working conditions of extended sun and pesticide exposure. Until recently, farmworkers earned 40-45 cents for every 32 pound bucket in Florida's tomato fields, a rate that had barely increased since 1978. At this rate, workers had to pick 125 buckets a day, or two tons of tomatoes, to earn \$50.³³ This severe poverty, coupled with farmworkers' exclusion from U.S. labor rights protections, has made farmworkers vulnerable to other extreme abuse and other human rights violations, such as slavery.

Since 1997, the U.S. Department of Justice has prosecuted seven cases of farmworker slavery in Florida, leading to the liberation of more than 1,200 workers from forced labor.³⁴

Since 1997, the U.S. Department of Justice has prosecuted seven cases of farmworker slavery in Florida, leading to the liberation of more than 1,200 workers from forced labor.³⁴

Excluded from labor laws and earning sub-poverty wages, farmworkers in Florida follow the annual harvest along the East Coast migrant stream. In addition, they come from diverse racial and linguistic backgrounds in their Afro-Caribbean, Latino, and indigenous Mayan communities, and have high rates of illiteracy. Thus, even if farmworkers' human rights to join unions were respected, their membership would be constantly changing, vulnerable to racial divisions, and face immense challenges to basic communication. Despite these obstacles, farmworkers in Immokalee, Florida, began organizing in the early 1990s and employed popular education methods to raise consciousness in their community. Influenced by their own organizing traditions in Haiti, Guatemala, and Mexico, and inspired by the teachings of Dr. Martin Luther King Jr., the farmworkers began to embrace

the language of human rights to educate themselves and unite across their racial and ethnic differences based on their shared humanity. Their name, the Coalition of Immokalee Workers (CIW), was chosen to reflect this unity.

However, early strategies targeting grower associations – which aimed to negotiate with workers and end crew leader abuse, sexual harassment, and wage theft – fell short, as growers did not face legal or market consequences for violating workers' rights in their fields. After all, farmworker powerlessness had been the status quo in Florida's fields for more than 400 years. Struggling to find a way to enforce their human rights, the CIW developed a new strategy: they began targeting the huge food corporations that buy the tomatoes they pick and building alliances with consumers. Not only did these corporations have the power to implement human rights standards throughout their supply chain (as many did with animal rights standards), but also, their immense purchasing power resulting from massive consolidation in the food industry was the force driving down their wages in the first place.³⁵ Perhaps most importantly, even if these corporations did not care about farmworker rights, they cared greatly if consumers associated their multi-billion dollar brand image with slavery and abuse.

Starting in 2001, the CIW initiated the Campaign for Fair Food, a human rights campaign that targeted corporate buyers of tomatoes – fast food restaurants, food service companies, and the supermarkets – with three demands in their "Fair Food Agreement," which requires a corporation to: 1) pay a penny more per pound of tomatoes they buy, which would respect farmworkers' human right to fair wages, 2) implement a third-party human rights monitoring mechanism to enforce a zero-tolerance policy for slavery in their supply chains, and 3) respect farmworker participation in all levels of implementation of the human rights agreement.

Central to the Campaign for Fair Food was CIW's philosophy, "Consciousness + Commitment = Change." Building consciousness required the continuous education and empowerment of

workers and the movement's growing network of consumer allies. A human rights framework was essential in establishing solidarity among farmworkers and their diverse ally community of students, people of faith, and food justice advocates. Commitment was instilled through powerful and creative protest actions at targets' corporate headquarters, which communicated farmworkers' reality in the public sphere and shamed corporations that profited from – and were responsible for – farmworkers' exploitation. By 2012, the CIW had successfully secured Fair Food Agreements with 11 major corporations.³⁶ In 2010, faced with immense pressure from their buyers, 90 percent of Florida tomato growers³⁷ signed on to CIW's Fair Food Program to pass down the penny more per pound from buyers directly to workers (increasing workers' wages up to 70 percent), implement a human rights code-of-conduct including a zero tolerance policy for forced labor and sexual assault, and a worker-based education and complaint resolution mechanism. Thus, even though farmworkers were and continue to be excluded from U.S. labor rights protections, they have been able to successfully defend their human rights to decent work and freedom from forced labor by building a diverse, broad-based movement of workers and consumer allies. In this way, they have been able to hold corporations accountable to human rights standards throughout their supply chains.



ROC: Protesting for Paid Sick Days and Raised Tipped Wage | Photo credit: Laura Emiko Soltis © 2013

Restaurant Workers: Restaurant Opportunities Center (ROC) The restaurant industry is the largest private employer in the U.S. economy, employing more than 12 million workers. Because of the immensity of the U.S. food industry, victories for food chain workers are crucial in setting workers' human rights standards in other industries, raising the wage floor, and strengthening the middle class.

The restaurant industry, despite generating more than \$1.7 trillion in revenue in recent years, systematically violates the human right to fair wages. In 2009, the average annual income for restaurant workers was \$15,092, while the average for private sector workers was \$45,155,³⁸ and seven of the top ten lowest-paid occupations in the U.S. are restaurant occupations.³⁹ These low wages are the result of outdated labor laws that have contributed to the industry's low 1% unionization rate, as well powerful corporate lobbying by the National Restaurant Association (NRA), which has helped freeze the federal tipped minimum wage at \$2.13 for the past twenty-two years. While many states have passed laws raising the tipped minimum wage above the sub-poverty federal level, 18 states – primarily in the South – have not. Because these lowest paying, tipped-wage positions disproportionately impact women and workers of color, human rights violations impacting tipped workers are also matters of gender justice and racial justice.

Women make up roughly half of restaurant workers, but they make up two-thirds of restaurant workers earning the \$2.13 minimum wage.⁴⁰ Among tipped servers, women are paid 68 percent of what men are paid. Black women servers are paid 60 percent of the wage paid to their male counterparts – over a working lifetime, this inequality adds up to over \$400,000.⁴¹

Racial discrimination in hiring and segregation between front-of-house and back-of-house positions has led to significant racial disparities: on average, workers of color earn 72 percent of the wage their white co-workers are paid.⁴²

Corporate restaurant chains not only rely on the public to subsidize their workers' poverty wages through tips, but they also place the public at risk by denying workers paid sick days. The denial of paid sick leave violates the human rights to healthy working conditions and to days of rest, and it also endangers public health. The U.S. remains the only industrialized country that does not require employers to provide paid sick days or protect workers from being fired if they miss work due to illness.⁴³ As a result, nearly 90% of restaurant workers are denied even a single paid sick day to recover from an illness or provide care for a sick child, and two thirds of restaurant workers report preparing or serving food while sick.

In response to these numerous violations of the human right to decent work, workers centers such as the Restaurant Opportunities Center (ROC) have helped organize restaurant workers to defend their human rights. ROC empowers workers through workplace justice campaigns and leadership development, educates consumers with a "Diners Guide" to hold corporate restaurant chains accountable to workers' rights standards, and conducts participatory research to support public policies that protect workers' human rights at state and federal levels. In addition to recently participating in the Universal Periodic Review process to report on U.S. violations of the right to decent work, ROC is currently mobilizing worker and public support at the national level to pass the Healthy Families Act, which would respect the human right to days of rest and establish a federal earned sick day standard, and the Miller-Harkin Fair Minimum Wage Act, which would respect the human right to fair wages and an adequate standard of living by raising the federal minimum wage to \$10.10 and link the tipped minimum wage to 70 percent of the regular minimum wage.

Raising the minimum wage to \$10.10 by 2015 would raise the wages of nearly 30 million workers⁴⁴ and lift six million workers out of poverty.⁴⁵ It would also alleviate gender wage gap and racial disparities, as 66 percent of minimum wage workers are women and 60 percent are people of color.⁴⁶

The human right to fair wages that ensure people an existence worthy of human dignity is not simply an ethical ideal – the U.S. has an obligation under international law to respect, protect, and fulfill its people's right to just compensation without discrimination, as specified in UDHR Article 23(3), ICERD Article 5(e)(i), and ICESCR Article 7(a). Holding the U.S. Government accountable to these human rights obligations through collective mobilization at the grassroots and in international arenas has the power to improve wages and working conditions, reduce poverty, and advance economic justice here at home.

IMPROVING WORKERS' HUMAN RIGHTS: RECOMMENDATIONS FOR GOVERNMENT AND CORPORATIONS

There are many steps that the U.S. Government can take to respect, protect, and fulfill its people's full spectrum of human rights. Below are several concrete recommendations that both government and corporations can follow to improve workers' human rights in the United States.

Government

- Ratify the International Covenant on Economic, Social, and Cultural Rights
- Establish a National Human Rights Institution (NHRI) to oversee the implementation of human rights protections, strengthen local human rights bodies, and educate local, state, and federal officials on how human rights accountability frameworks can help advance opportunity and equality at the local level⁴⁷
- Hold corporations accountable to the Guiding Principles on Business and Human Rights to protect people from human rights violations by corporations
- Update outdated U.S. labor statutes so they adequately protect workers' human rights in industrial and service industries and expand protections to include all currently excluded workers, including farmworkers and domestic workers
- Raise both the minimum wage and tipped minimum wage to living wage standards that fulfill the human right to a standard of living adequate for food, shelter, clothing, and healthcare
- Respect the human right to days of rest and protect public health by passing the Healthy Families Act, which would require employers to provide earned sick days
- Pass the Employment Non-Discrimination Act (ENDA) to protect lesbian, gay, bisexual, and transgender people's human rights to be free from discrimination at work
- Eliminate questions about former arrests or convictions from employment or public assistance applications to end cycles of unemployment and homelessness
- Promote corporate responsibility by requiring corporations to implement workers' human rights standards to qualify for government assistance, tax incentives, or other financial benefits

Corporations

- Adopt Guiding Principles on Business and Human Rights
- Educate employees and contractors on the human right to decent work
- Respect the human rights of employees and individuals in communities where business operates
- Implement supply chain codes of conduct with independent monitoring and worker participation

HUMAN RIGHTS AS A CALL TO ACTION

None of the above recommendations will be realized without an informed public that is mobilized and committed to actively holding government, corporations and private actors accountable. Advancing human rights and economic justice in the United States requires everyday people to:

1 **Recognize injustice:** Economic inequality, poverty, and poor working conditions are not the result of individual failure. They are a result of policies and structures designed to place the profit interests of a few above the shared prosperity that results when everyone's human rights are respected.⁴⁸

2 **Learn and assert human rights:** Asserting civil rights are important, but they are limited to protecting people from some forms of discrimination. Human rights education empowers people to assert their full spectrum of human rights. It allows all of us to hold government at all levels, corporations, and all organs of society to a higher standard to promote and respect people's political, civil, economic, social, and cultural rights. These include the rights to decent work, health, and an adequate standard of living.⁴⁹

3 **Build alliances:** Employing a human rights language enables diverse groups to create bonds of solidarity based on their shared humanity and to recognize how their struggles intersect. Alliances strengthen grassroots movements and are necessary to overcome "divide and conquer" strategies of powerful interests.⁵⁰

4 **Engage in collective action:** Collective actions with clear targets and goals can lead to change by helping to hold human rights violators accountable. Collective actions that are documented and disseminated amplify the voices of those most affected so that they can share their experiences, needs, and solutions to the general public. A public informed about economic human rights violations can help put pressure on government to enact policies that respect economic rights, and support businesses that respect workers' rights to organize, fair wages, and safe working conditions throughout their supply chains.⁵¹



If there is no struggle, there is no progress."

-Frederick Douglass

Notes & Sources

1. This resource was written by Laura Emiko Soltis, Ph.D., on a consultative basis for the US Human Rights Network. The development and completion of the document was made possible because of the expert support and guidance of an advisory group. Members of the group provided substantive information on the topic, verbal and written feedback on various drafts of the document, and other key support for completing this resource. Advisory members included Kimi Lee of United Workers Congress, Mary Gerisch of Vermont Workers' Center, Treston Davis-Faulkner of National Jobs with Justice, Jaribu Hill of Mississippi Workers' Center, and Stacey Long of the National Gay and Lesbian Taskforce. Additional support for completing this document came from US Human Rights Network national education coordinator, Yolande Tomlinson, Ph.D.
2. Institute for Women's Policy Research. African American women earn 61 cents and Latina women earn 57 cents for every dollar paid to white men. Available online: <http://www.iwpr.org/initiatives/pay-equity-and-discrimination>
3. Many workers' right groups have renamed these "Right to Work (for Less)" states. "Right to Work" legislation is pervasive in the South, and is increasingly spreading to Midwest and Western regions.
4. Organisation for Economic Cooperation and Development. "Crisis squeezes income and puts pressure on inequality and poverty." 2013. Available online: <http://www.oecd.org/els/soc/OECD2013-Inequality-and-Poverty-8p.pdf>
5. Mishel, Lawrence, Josh Bivens, Elise Gould, and Heidi Shierholz. *The State of Working America*, 12th Edition. A forthcoming Economic Policy Institute book. Ithaca, N.Y.: Cornell University Press.
6. Institute for Women's Policy Research, see Reference 1.
7. See Reference 4. Also available online: <http://stateofworkingamerica.org/fact-sheets/poverty/>
8. Krehely, Jeff and Jerome Hunt. "Helping All of Our Homeless: Developing a Gay- and Transgender-Inclusive Federal Plan to End Homelessness. Center for American Progress." January 2011.
9. Grant, Jaime M., Lisa Mottet, and Justin Tanis. "Injustice at Every Turn: A Report of the National Transgender Discrimination Survey. Executive Summary. The National Center for Transgender Equality and the National Gay and Lesbian Task Force." 2011.
10. Study conducted by Peter D. Hart Associates for Human Rights USA. See University of Minnesota Human Rights Resource Center's Human Rights Education Handbook, available online: <http://www1.umn.edu/humanrts/edumat/hreduseries/hrhandbook/part1D.html>
11. The Convention on the Rights of the Child is the most rapidly and widely ratified human rights treaty in history. The United States has refused to ratify this convention and make its provisions legally enforceable in the U.S. However, it has signed and ratified the treaty's Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, and its Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.

12. Treaties have legal force, but because the U.S. has ratified these documents with reservations, they have often limited the enforceability of these treaties. One tactic has been for local governments to pass resolutions to implement or have portions of the treaty adopted as law.

13. However, U.S. ratification of ICERD only requires it to prohibit discrimination in economic and social fields, not guarantee economic and social rights.

14. The U.S. boycotted the Human Rights Council throughout the George W. Bush Administration. The U.S. officially takes part in the review process under the Barack Obama Administration.

15. See the coalition reports by U.S. NGOs coordinated by the US Human Rights Network and submitted during the Ninth Session of the UPR Working Group of the Human Rights Council, 2010, including those on economic, social, and cultural rights. Available online: <http://www.ushrnetwork.org/resources-media/universal-periodic-review-joint-reports-upr-joint-report-2010>

16. John Ruggie is the UN Special Representative on Human Rights and Transnational Corporations and Other Business Enterprises.

17. Ruggie, John. "Introduction to the Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework." March 2011. Document A/HRC/17/31.

18. Ibid.

19. Mancini, Matthew J. "Race, Economics, and the Abandonment of Convict Leasing." *The Journal of Negro History* 63(4): 339-52. 1978. See page 343.

20. See Blackmon, Douglas A. *Slavery By Another Name: The Re-enslavement of Black People in America from the Civil War to World War II*. New York: Doubleday. 2008. See also Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: The New Press. 2010.

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22. Bracero is derived from the Spanish word, brazo, or "arm," and was used to signify a contracted farmworker from Mexico.

23. Meyers, Deborah Waller. "Temporary Worker Programs: A Patchwork Policy Response." Migration Policy Institute (12). January 2006.

24. Ibid.

25. In addition to the BWI Temporary Alien Labor Program, 120,000 prisoners of war were also forced to work in the East Coast during this period. For more on the history of East Coast migrant farmworkers, see Hahamovitch, Cindy. *The Fruits of Their Labor: Atlantic Coast Farmworkers and the Making of Migrant Poverty, 1870-1945*. Chapel Hill, NC: University of North Carolina Press. 1997.

26. U.S. Department of State. *Trafficking in Persons Report*. June 2010. See pages 338-345.

27. The Coalition of Immokalee Workers' anti-slavery campaign emphasizes that slavery is an extreme on a spectrum of abuse resulting from the absence of worker's rights. For more information on their anti-slavery campaign, visit: <http://ciw-online.org/slavery/>

28. For more on excluded workers, see the 2010 report, "Unity for Dignity: Expanding the Right to Organize to Win Human Rights at Work," by the United Workers Congress, which outlines how employers take advantage of these conditions to legally bypass labor laws by 1) hiring subcontractors, which allows employers to bypass laws through small workplace loopholes, 2) misclassifying workers as "independent contractors" rather than "employees" protected by labor law, and 3) hiring undocumented immigrants as day laborers, who refrain from reporting violations due to intimidation by their employers.

29. Workfare workers are welfare recipients who must "work off" their welfare grants. For more information on workfare worker conditions and struggles, see page 28 of "Unity for Dignity: Expanding the Right to Organize to Win Human Rights at Work," United Workers Congress, 2010.

30. A national survey of 6,450 transgender and gender non-confirming participants found that 90% of those surveyed reported experiencing harassment, mistreatment, or discrimination on the job. See Grant, Jaime M., Lisa Mottet, and Justin Tanis. "Injustice at Every Turn: A Report of the National Transgender Discrimination Survey." Executive Summary. The National Center for Transgender Equality and the National Gay and Lesbian Task Force. 2011.

31. Farmworker mobilizations in Hawaii and California won

changes to state laws securing their right to join unions.

32. National data on farmworker wages and working conditions are outdated, and those that are available are skewed upward, as surveys often include supervisors and packinghouse employees as “farmworkers.”

33. Bowe, John. “Nobodies: Does Slavery Exist in America?” *The New Yorker*, April 23, 2003.

34. These cases were uncovered and investigated by the Coalition of Immokalee Workers. Cases in the late 1990s helped bring about the Trafficking Victims Protection Act of 2000, which updated century-old laws and sentencing guidelines regarding slavery in the United States.

35. See Oxfam America. “Like Machines in the Fields: Workers without Rights in American Agriculture.” 2004.

36. These include Taco Bell, McDonald’s, Burger King, Subway, Chipotle, Compass, Aramark, Sodexo, Bon Appétit, Whole Foods, and Trader Joe’s.

37. Organized under the Florida Tomato Growers Exchange.

38. ROC United. “Behind the Kitchen Door: A Multi-Site Study of the Restaurant Industry.” 2011.

39. Bureau of Labor Statistics, Occupational Employment Statistics 2010. “National Cross-Industry Estimates sorted by median hourly wage for all Standard Occupational Classifications.” January 2012. Cited in ROC United. “Tipped Over the Edge: Gender Inequity in the Restaurant Industry.” February 2012.

40. ROC United. “Tipped Over the Edge: Gender Inequity in the Restaurant Industry.” February 2012.

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42. ROC United. “Realizing the Dream: How the Minimum Wage Impacts Racial Equity in the Restaurant Industry and in America.” June 2013.

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Wage Impacts Racial Equity in the Restaurant Industry and in America.” June 2013.

46. See National Women’s Law Center. “The Minimum Wage and the EITC: Complementary Strategies Helping Women Lift Their Families Out of Poverty.” July 2013. See also ROC United. “Realizing the Dream: How the Minimum Wage Impacts Racial Equity in the Restaurant Industry and in America.” June 2013.

47. Quoted from the Human Rights at Home Campaign (HuRAH). For more information on HuRAH and National Human Rights Institutions, please see: <http://www.ushrnetwork.org/our-work/campaign/human-rights-home-campaign#sthash.ZzWWiqde.dpuf>

48. Organizations such as the National Law Center on Homelessness and Poverty do important work identifying discriminatory and unjust policies that are the root cause of poverty and economic insecurity. For more information, please visit: www.nlchp.org

49. The grassroots community education and organizing behind Vermont Workers’ Center’s successful Healthcare is a Human Right Campaign is a powerful example of how human rights education can change the terms of debates on issues such as healthcare and advance human rights through state level policy changes. For more information, please visit: www.workerscenter.org/healthcare

50. Organizations such as the United Workers Congress (formerly Excluded Workers Congress) and the Food Chain Workers Alliance, which bring together formerly divided or disparate groups of workers, demonstrate how coalitions can set forth common goals that reach a broader audience and can embark on ambitious strategies that could not have been taken on alone. For more information, please visit: www.excludedworkerscongress.org and foodchainworkers.org

51. The U.S. Human Rights Network provides a vital space and platform through which intersecting movements can coordinate and learn from one another, submit reports, and make their voices heard in domestic and global arenas. For more information, please visit: www.ushrnetwork.org

Workers' Rights and Economic Justice in the United States:

A HUMAN RIGHTS PERSPECTIVE

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