

DECLARATION OF THE INTERNATIONAL TRIBUNAL ON TRADE UNION FREEDOM

Based on the Final Resolution on the validity of this fundamental right in MEXICO
MAY 1st, 2010

To the Mexican workers,
To the national authorities and competent international bodies,
To the national and international public opinion,

The serious accusations of systematic and repeated violations of trade union freedom in Mexico motivated the constitution last year of the International Tribunal on Trade Union Freedom. This Tribunal met from the 28th to the 30th of April of 2010 to conclude the proceedings opened against the Mexican government, which should be the guarantor of compliance with this fundamental right. Today, on this historic day of May, we have come to the Zócalo of Mexico City to present the sense of our Final Resolution.

The Tribunal concludes its work after having listened to the testimony of representatives of 20 unions and having analyzed all the documentation that accompanied each complaint, as well as various [other] sources of information. The Tribunal, based on international norms of human rights and especially international labor law, as well as the constitution and the laws of Mexico, has issued a ruling that it will make available to the Mexican authorities, the International Labor Organization, the Organization of American States, the United Nations, the European Union and other nations with which Mexico has signed treaties that include human and labor rights.

The Tribunal notes and condemns the systematic policy of the Mexican State at its highest levels to curtail the freedom of association, to annul collective bargaining, to deny the right to strike and, ultimately, to affect the fundamental human right to decent work. This is done through the violation of the Constitution and laws of this country, their interpretation manipulated against the genuine organizations of workers by administrative and judicial authorities by means of fraudulent processes and/or assault. This is reinforced by the absence of independent labor courts, with exceptions that do not affect the general trend, and also by the failure to recognize that labor rights are fundamental human rights that require special protection.

This policy combines practices that lead many authorities to be part of a network of corruption with employers and supposed [labor] organizations that deny, by means of corporatism, through the simulation of legality or the use of violence, fundamental rights at work. These institutional anomalies lead to the misuse of the institutions and laws, such as trade union registration and “taking note” (official recognition), in a manner that contradicts international labor rights, in order to serve private interests before the interests and rights of the Mexican population. The

extreme is now the alarming spread of so-called “protection” contracts and unions, pure simulations which conspire to circumvent the collective rights of workers.

The Tribunal notes and repudiates the practice of hiring by business owners and supposed trade union organizations of “golpeadores,” assault groups that through the exercise of physical violence, intimidation and blackmail, prevent or try to prevent the development of independent and democratic trade unionism, as well as the defense of the rights of workers. The Tribunal notes that this practice, being consented to or condoned by the authorities, constitutes an additional violation of human rights; we demand an end to impunity, and the sanctioning of those responsible with the criminal liability which they incur.

The Tribunal also calls upon the Mexican authorities to put an immediate end to the criminalization of social protest and the militarization of [labor] conflicts, as well as the use of the police forces against the workers’ movements. The Tribunal notes that these practices and the systematic denial of labor rights and other gross violations of human rights that accompany them cast doubt upon and discredit institutions and contribute to the breakdown of peace.

By the way, as a result of being in Mexico at this time, the Tribunal cannot fail to express its equal condemnation of the attack which victimized the humanitarian mission in the State of Oaxaca in an ambush perpetrated by paramilitaries on April 27, and demand the arrest and prosecution of those responsible for the murders of two human rights defenders and for the other people who have been wounded and “disappeared.”

The Tribunal notes with concern that social rights acquired through the Mexican Revolution of 1910 and enshrined in the Constitution of Querétaro of 1917 are being progressively dismantled. The Tribunal notes that the official labor reform proposal [currently under consideration by the Mexican federal legislature] could even further undermine these achievements and rights of the Mexican population.

The Tribunal notes that violations of core labor conventions, such as conventions 87 and 98 of the ILO, are accompanied by other serious human rights violations and repeated violations of the rights to life and to physical integrity, as well as by arbitrary deprivation of freedom, discrimination, defamation, the use of blacklists, sexual harassment and other irregular practices of moral violence.

The Tribunal reiterates, among other recommendations:

- That the Mexican State, in relation to freedom of association, comply strictly with its obligations under the Constitution of the Republic and Mexican laws, and under conventions 87 and 98 of the International Labor Organization.
- That the Mexican State comply fully with the 2006 recommendations of the Committee of the Covenant on Economic, Social and Cultural Rights, as well as the recommendations of the

Human Rights Council of the United Nations after the universal periodic review to which Mexico was submitted in 2008.

- That the Mexican government respect the principles of non-regressivity and progressivity contemplated in specific agreements that it has ratified or impelled, in order not to impair social achievements and the model of development established by the Mexican Constitution, as could happen with the labor reform initiative of the official party.
- That the Mexican State, at the federal and state levels in its various organs of public power, recognize the primacy at a constitutional and legal level of international human rights law and in particular of international labor rights, to contribute to the deepening of democracy in Mexico.
- That the organizations of Mexican civil society, in particular the trade unions, utilize the mechanisms of the United Nations and the OAS that protect human rights.

Finally, while in Mexico, this Tribunal calls upon the government of Felipe Calderón not to use the army or the police against the historic strike at Cananea and to suspend the attacks of which the miners' union is the victim; otherwise, if more victims do occur, we will use all the resources and institutions within our reach so that any crimes that might be committed do not enjoy any impunity whatsoever.

Equally, the Tribunal adds [its voice] to the generalized repudiation of the law that criminalizes the undocumented migrants in Arizona and joins the national and international demand for the Obama Administration to prevent its taking effect, but calls at the same time for the Mexican authorities to put an end to the practices that affect the fundamental rights of migrant population in its own territory.

Finally, this Tribunal cannot stop calling upon the Mexican people and the international community to show solidarity with the dozens of people who have declared a hunger strike to defend the right to work and labor rights of the members of the Mexican Union of Electrical Workers (SME), a last resort of civil resistance summarizing the absence of or poor responses of the State to the legitimate demands of the workers. To dismiss 44,000 workers and try to annihilate an almost century-old union, such as SME, is not only a blow against the workers, it is an attack against the Mexican population as a whole and the most basic democratic principles.

In fact, the Tribunal expresses its firm commitment to contribute with each and every one of its members in all social, institutional and political spaces in which we participate on a regional and global level, to echo their demands and to demand the cessation of violations of fundamental labor rights and other human rights violations against you and the unions that represent you, that we have found in the development of our work.

Mexico City, May 1st 2010.

Tribunal Members: Dean Hubbard, of the United States; Laura Mora, of Spain; Amparo Merino, of Spain; James Cockroft, of the United States; María Estrella Zuñiga, of Chile; Horacio Meguira, of Argentina; Hugo Barreto, of Uruguay; Luiz Salvador, of Brazil; Luis Guillermo Pérez, of Colombia; Lidia Guevara, of Cuba; Kjeld Jacokbsen, of Brazil; Rosario Ibarra de Piedra, Raúl Vera López, Miguel Concha Malo, Alfredo Sánchez Alvarado, Ana Colchero, Enrique Larios, Oscar Alzaga, Miguel Angel Granados Chapa, Rosario Ibarra, Eduardo Miranda, Estela Ríos, of Mexico.

Observers attached to the Tribunal: Patrick Choupat, of the Union of Trade Union Solidarity (France); Héctor Castellano, of Uruguay, representative of the Confederation of Trade Union Central Organizations of the Mercosur countries; Arturo Ruiz, of Guatemala, representative of the Public Services International and the International Transport Federation.

Organizing Committee:

International organizations: Association of Latin American Labor Lawyers (ALAL), International Transport Federation (ITF), International Federation of Workers of the Metallurgical Industry (FITIM), Federation of Unions of Holland (FNV), Solidarity Center of the AFL-CIO in Mexico, Network of Solidarity with the Maquiladoras (RMS-Canada), International Campaign against Contracts of Employer Protection (CICPP)

Mexican unions: Alliance of Tramway Workers of Mexico (ATM), Metallurgical and Mining Union (SNTMMSC), Mexican Union of Electrical Workers (SME), Union of Technical and Professional Oil Workers (UNTYPP), Sections 3, 7 and 9 of the SNTE-CNTE, Union 20th of November of the UVM, National Union of Telephone Operators of the Mexican Republic (SNTRM), Union of Glass Workers of Potosí, Union of Workers of the CONALEP, Authentic Workers' Front (FAT), Union Association of Aviation Pilots (ASPA), Independent Union of Workers of UAM (SITUAM), Unique Union of Workers of the Nuclear Industry (SUTIN)

Mexican associations: National Association of Democratic Lawyers (ANAD), Union of Jurists of Mexico (UJM), professors of the Areas of Labor Law and Social Security of the UAM Azcapotzalco, Area of Human Rights of the UACM, professors and investigators of the Area of Labor Law of the UNAM, Network of Labor Lawyers, Center of Reflection and Labor Law Action (CEREAL), Center of Labor Research and Trade Union Legal Advice (CILAS)