INTERNATIONAL LABOR RIGHTS FORUM

Working for Scrooge:

Worst Companies of 2011 for Freedom of Association

December 2011

INTRODUCTION

"Everyone has the right to form and to join trade unions for the protection of his interests."

-Universal Declaration of Human Rights, Article 23, Section 4

The Universal Declaration of Human Rights (UDHR), adopted on December 10, 1948, sought to "complement the UN Charter with a road map to guarantee the rights of every individual everywhere." The Declaration's Article 23, Section 4 provides that "everyone has the right to form and to join trade unions for the protection of his interests." Unfortunately, this right has yet to be realized by workers in West Africa, Bangladesh, Phillipines, and right here in the United States.

This year, in Working for Scrooge , as in the past three years, the International Labor Rights Forum profiles several companies for their Scrooge-like behavior in violating workers' right to associate. Some of this year's Scrooges, such as Dole and Wal-Mart, are repeat offenders – giant corporations that refuse to uphold their responsibility to their direct employees and to workers in their supply chains. Hershey receives Scrooge status for the first time – an accolade long overdue – as the chapter exposes an ongoing pattern of the company's neglect of workers' rights and refusal to be more accountable to workers in its supply chain. The case of Philippine Airlines illustrates an increasingly common trend among corporations, the flexibilization of work, and how when workers protest against outsourcing, they are locked-out and fired.

The right to freedom of association is typically violated through the use of bullying tactics and the spread of anti-union propaganda but this year's scrooge corporations have taken violating workers' rights to new lows. The Scrooges' human rights violations on this year's list include intimidating workers with severe threats, standing by while subcontractors aggressively suppress worker organizing, collaborating with military forces to undermine democratically elected union leaders, illegally firing thousands of workers, exploiting students, and turning a blind eye to forced child labor in the supply chain.

Read on to find out why Dole, Hershey, Philippine Airlines, and Walmart made ILRF's list of the worst corporations for workers' right to associate.

DOLE FOOD COMPANY, INC.

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Background

For the fourth consecutive year, ILRF is highlighting Dole Food Company, Inc. as one of the top labor rights offenders in Working for Scrooge. Dole is the world's largest producer of fresh fruit and vegetables, and the top grower of bananas, pineapples, and other tropical fruit. The company manages around 74,000 employees who grow, process and distribute over 200 products in more than 90 countries. This year the company appears to be backtracking on previous commitments to uphold workers' rights.

Violations

Philippines

Dole's main pineapple operation, Dole Philippines, Inc., began systematically violating its workers' right to freedom of association in 2006. Before 2006, Amado Kadena-National Federation of Labor Unions-Kilusang Mayo Uno (AK-NAFLU-KMU), the local union representing Dole Philippines' 4,700 workers, enjoyed widespread support from workers and fostered a collaborative relationship with Dole management. However, in 2006 Dole began implementing anti-union policy changes to nurture the nascent leadership of Labor Employees Association of Dole Philippines (LEAD-PH), a group of workers associated with the Armed Forces of the Philippines.

The company-endorsed worker organization subsequently launched an anti-union campaign using unsubstantiated accusations of corruption against union leaders and allegations by the military that AK-NAFLU-KMU was a terrorist organization supporting anti-government insurgents. In addition, management escalated its campaign against the union by committing unfair labor practices, retaliating against union supporters, and falsely charging one union leader with criminal libel.

In an effort to further weaken workers' loyalty to AK-NAFLU-KMU, Dole management supported the participation of workers in military anti-terrorism seminars. Workers were often invited by supervisors and work gang leaders to attend anti-terrorism trainings by the military. When workers arrived at these events, Dole administrative employees registered attendees, creating a permanent record of who did and did not attend the military programs. Management also excused workers from their duties and provided them with paid leave to attend the seminars. Because it was clear to Dole workers that management supported the military and the LEAD-PH, workers felt compelled to attend these programs and support petition drives, believing they risked retaliation if they didn't.

In 2008, the union sought the assistance of mediators from the Philippine Department of Labor's National Conciliation and Mediation Board (NCMB), hoping to bring an end to Dole management's overt support for an illegal campaign against its leadership. However, Dole management refused

to participate in the mediation.

In February 2010, Dole management illegally removed the democratically-elected AK-NAFLU-KMU leadership, replacing them with the disgruntled workers whose five year military-backed campaign had effectively polarized the workforce. Though the Philippine Department of Labor twice ordered Dole to reverse its illegal decision, and return recognition to AK-NAFLU-KMU, Dole refused, knowing that Philippine labor courts were too slow to intervene before scheduled union elections in February 2011.

The union subsequently lodged a formal complaint challenging Dole's "socially responsible" certification for compliance with the SA8000 standard for safe and decent workplaces, which is overseen by Social Accountability International (SAI). At the time Dole was a member of the SAI Advisory Board and had issued letters previously defending its social responsibility record by pointing to its uptake of SA8000 certifications. However, when auditors confirmed violations of the right to organize and shared those findings with workers, Dole filed complaints against the auditors. After more than a year of looking into the issue, SAI let the certification stand, effectively dismissing the union's complaint. Despite SAI having stood by the company previously, Dole-Philippines has since relinquished its certification and Dole Foods resigned from the SAI board.

Recognizing that the five-year anti-worker campaign had created a climate of fear, the union sought the support of the US Government as well as the Commission on Human Rights of the Philippines (CHR), to conduct election monitoring in advance of the February 2011 union elections. Dole and the competing union slate signed a Social Accord in 2011 to hold a fair election. Unfortunately, management cancelled work shifts on days designated for AK-NAFLU-KMU's campaign activities, and implemented double shifts on campaign days allotted to LEAD-PH. More brazenly, workers reported being threatened with dismissal or non-renewal of work contracts if they voted for the AK-NAFLU-KMU.

After a brutal five year campaign, the AK-NAFLU-KMU lost the certification election to the company's preferred union, LEAD-PH.

Ironically, the Employers' Confederation of the Philippines awarded Dole Philippines its employer of the year award in 2011 as a reward for its "workplace policies and programs, characterized by management-worker harmony." Apparently Dole's presence and influence is still very large in the Philippines.

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Take Action!

Call on Dole Foods and Dole Philippines to be accountable to workers: http://www.LaborRights.org/DolePetition

This is no time to roll back commitments to workers' rights. For years Dole Foods made a series of public commitments to ensure workers' rights on its farms. When its compliance was challenged, the company chose to walk away from the commitments it had made rather than acknowledge the need to change.

HERSHEY'S

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Background

There is nothing pure about Hershey's chocolate this holiday season. The Hershey Company is the largest chocolate manufacturer in the United States earning $5.67 billion in 2010. The company makes over 80 branded candy and chocolate products including Hershey Kisses, Reese's Peanut Butter Cups, Kit Kats, and Almond Joy. Hershey's founder, Milton S. Hershey, built the company as a model of responsible corporate citizenship by supporting a range of community-minded efforts including the Milton Hershey School, which provides a world-class education and nurturing home to nearly 2,000 children in need annually. Unfortunately, the company's lack of compassion for children forced to harvest cocoa and their exploitation of student workers in the United States places Hershey's firmly on the list of Scrooges.

Violations

West Africa

Since 2001, instances of forced labor, child labor, and human trafficking on West African cocoa farms have been reported in the media. Recent surveys reveal that hundreds of thousands of children continue to work in hazardous conditions.[1] According to UNICEF, roughly 35,000 of these child workers have been trafficked from Mali and Burkina Faso.[2] Hershey sources much of its cocoa from West Africa yet the company has no systems in place to ensure that cocoa purchased from this region is not tainted by child abuse and labor rights abuses.

A 2010 report by Tulane University, funded by the United States Department of Labor, recommends independent, third party certifications as the best method to provide credible assurance that the worst forms of child labor are not used in cocoa production.[3] While many of Hershey's competitors have begun to adopt third party certifications for some or all of their products, Hershey has refused. In fact, no Hershey products containing cocoa from West Africa have been certified to comply with international labor rights standards protecting children against exploitation. Although these systems are not perfect, they are much better than Hershey's stubborn refusal to establish supply chain accountability.

Hershey points to various undisclosed contributions to children's

charities in the United States and programs in West Africa as examples of its social responsibility, yet it refuses to set goals and make a public commitment to monitor and stop child abuse and labor rights abuses on the West African farms supplying its cocoa, despite a large body of evidence on child labor in the cocoa industry. Absent any third party certification for Hershey's products, standards of conduct for its cocoa producers, or transparency regarding its cocoa sources, it seems inconceivable that cocoa made under abusive conditions is not present in Hershey's products.

© *National Guestworker Alliance*

Pennsylvania

In August of 2011, hundreds of student guest workers employed at a Hershey products packing plant went on strike to protest exploitive conditions. The students came to the United States from all over the world as part of the State Department's J-1 cultural exchange visa program. They each paid recruiters between $3,000 and $6,000 to participate in the Hershey "cultural exchange" program. Upon arrival, the students found themselves working round-the-clock shifts performing backbreaking, manual labor in reportedly unsafe conditions packing Hershey products.[4] After automatic deductions from their paychecks, including rent for mandatory company housing alleged to be twice market rates, students netted as little as $1 to $3 per hour.[5] The students also report that when they voiced concerns at work, they were subjected to intimidation and threats of deportation from company management.

The students have called on Hershey to return the thousands of dollars each student spent in fees to work for Hershey, to end the exploitation of students on J-1 cultural exchange visas, and that the jobs students filled become living-wage jobs for local unionized workers. To date, Hershey has yet to fulfill any of these demands.

Hershey, which is over 50% unionized, claimed the packing plant was not a facility they owned, despite its production being 100% Hershey's. While this may be true, it is just another example of Hershey refusing to be accountable for the workers in its supply chain.

While Hershey once offered decent work and living wages to local residents for its packing operations, the company has since subcontracted the jobs out to inexpensive operations that employ foreign student workers for short periods of time, offered low pay, and denied the right to associate.

Take Action!

Call on Hershey to "Raise the Bar" at http://www.LaborRights.org/HersheyPetition

Many thanks to Green America for contributions to this chapter.

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Background

This holiday season corporate greed at Philippine Airlines (PAL) is shining through. Headquartered in the Philippine National Bank Financial Center in Pasay City, PAL was founded in 1941 and is the first and oldest commercial airline in Asia. Out of its hubs at Ninoy Aquino International Airport of Manila and Mactan-Cebu International Airport of Cebu City, PAL serves nineteen destinations in the Philippines and 24 destinations in Southeast Asia, Middle East, East Asia, Oceania and North America, including Vancouver, San Francisco, Las Vegas, Los Angeles, and Honolulu.

Violations

After posting record sales of $65 million this year, the Airline announced it would fire more than 2,600 employees. Founded in 1941, PAL and its unionized workforce have a 65 year history of working together collaboratively to ensure the company's success. In fact, to help PAL recover from the 1997 Asian financial crisis, its workers agreed to suspend their collective bargaining agreement and accept across the board salary and benefit freezes for more than a decade.
To reward its employees loyalty and sacrifice, in 2009 PAL management announced it would implement a "fire and rehire" outsourcing scheme that would slash workers' salaries and benefits in violation of the collective bargaining agreement PAL has signed with its workers. The scheme, announced during a routine meeting with elected union leaders, would have allowed the company to illegally fire more than 3,500 airline workers.

To stop PAL's illegal plans and reach a fair settlement the union sought assistance from Philippine Department of Labor mediators, who met with the Philippine Airlines Employees Association (PALEA) and PAL management for two weeks. Unfortunately, PAL management refused to discuss the outsourcing scheme during the talks and thus PALEA filed a notice of strike in late January of 2010 to protect the workers' jobs and their ability to form and join a trade union.

On April 16, 2010, PAL informed the union of the closure of the airport services, in-flight catering and call center reservations departments and the termination of some 2,600 employees by May 31, 2010. The jobs were to be outsourced to contracting firms who would presumably hire back the fired workers. PALEA members then started mass actions in protest.

Facing a united workforce, PAL management took the highly unusual step of lobbying the Philippine Department of Labor to use its powers to prevent the workers from taking collective action by "assuming jurisdiction" over the labor dispute and requiring the union to submit to compulsory arbitration. On April 26, by order of the then Secretary of Labor, the Philippine Government sided with PAL management and ordered the union into compulsory arbitration, enjoin-

ing any further collective action. In June, then acting Secretary of Labor Romeo Lagman issued a decision that allowed PAL management to forgo the collective bargaining process and proceed with its outsourcing scheme. With the stroke of a pen, the Secretary of Labor destroyed 65 years of hard won gains by airline workers, not to mention a history of strong labor management cooperation.

Stunned by the decision, which set the precedent that companies in the Philippines can justify violating both a collective bargaining agreement and the Philippine law regulating the use of labor contracting as a valid "management prerogative", the union appealed the decision to the Philippine courts, where the case remains unresolved. Both the International Labor Organization and the US Government have raised questions about the legality of the Philippine government's "compulsory" arbitration process.

With the Department of Labor fully in management's camp, workers appealed to Philippine President Benigno Aquino to protect their right to freedom of association. Despite having campaigned on promises of a new agenda for strengthening workers' rights, President Aquino sided with PAL management and approved the company's request to fire more than 2,600 workers. With the President's stamp of approval, PAL management fired all 2,600 employees on October 1, 2011.

Despite facing overwhelming collusion by powerful government and corporate elites, fired PAL workers refuse to give up. In September, PALEA workers launched a sit-down protest to protect their jobs, initially resulting in the cancellation of nearly 100 flights across the Philippines. In response PAL management began hiring scabs and using violent strike breakers that have injured several striking workers. Additionally, PAL and the government have continued their collaboration by aggressively pursuing unfounded criminal charges against workers in an effort to overwhelm the union with litigation.

Now that Philippine Airlines' true colors are shining through, PAL workers have called on the international community to support their seminal struggle for trade union rights. Support PAL's locked-out workers by boycotting the Philippine Airlines and its sister low-cost carrier, Air Philippines.

Take Action!

Tell Philippine Airlines to reinstate the locked-out and terminated workers to their regular jobs, and to support full-time jobs and job security for its workforce:
http://www.LaborRights.org/PALpetition

WAL-MART

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Background

This Scrooge of an employer hardly needs an introduction, but definitely warrants an exposé of its less than spirited approach to upholding basic worker rights at every stage of its multinational supply chain. Its motto, "Save money, Live Better!" is deeply ironic to those who bear the burden of Wal-Mart's low prices. Wal-Mart's workers are offered the promise of a job that will "ignite their spark." But in order to keep knocking prices to unbeatable lows, Wal-Mart must make cuts somewhere, and for that it looks to its workforce.

Violations

Dukes v. Wal-Mart

The sheer number of plaintiffs who joined in the historic "Dukes v. Wal-Mart" gender discrimination case this year stands as proof of the disrespectful work environment at Wal-Mart.[6] Among the discriminatory actions are Wal-Mart's inconsistent and inflexible scheduling options, which often leave single mothers to choose between working and taking care of their children. A discriminatory promotion process awards "opportunities for growth" to women much less readily than to men, as women must work one year and four months longer on average for a promotion compared to their male counterparts.[7] Only 33% of salaried managers at Wal-Mart are women, despite the fact that their performance ratings are more favorable than those of male managers.[8]

In March of 2011, the largest class action lawsuit and employer discrimination case in US history was brought to trial in the Supreme Court on behalf of 1.5 million female Wal-Mart employees.[9] They joined the six original plaintiffs in hopes that the Supreme Court would hold Wal-Mart accountable for its widespread discriminatory actions against women. Unfortunately, the Supreme Court ruled against the certification of class action status, asserting that the scope of discriminatory instances was too broad for the group of plaintiffs to award them "Class-Action" status as defined in the Constitution.[10]

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Bangladesh

In Bangladesh, the global economic race has hit rock bottom. Not coincidentally, Wal-Mart is the largest buyer of apparel from Bangladesh, purchasing more than $1 billion of Bangladesh's apparel exports each year.[8] Those purchases help create at least 100,000 jobs in Bangladesh, but what kind of jobs?

The minimum wage for garment workers is 20 cents

an hour, the lowest wage by far of any major garment producing country. Nutritional studies show that this wage is barely sufficient to buy the food necessary to feed a single worker, let alone cover the basic needs of her family. In fact, garment workers' wages are so low that a family of four would need double the minimum wage just to have access to the same amount of food as prescribed for Bangladeshi prisoners.[11]

The garment sector has also been ravaged by a series of fires and building collapses that have killed hundreds of workers over several years, revealing the failure of government and industry to enforce basic safety standards. A century after the Triangle Shirtwaist Factory fire in New York City claimed the lives of 146 workers, Bangladeshi garment factories continue to be plagued by chronic safety problems, including locked or blocked fire escapes and malfunctioning fire equipment. According to the Bangladeshi government, 414 garment workers lost their lives in factory fires from 2006 to 2009.[12]

This is the environment in which Wal-Mart has chosen to invest more than $1 billion each year. This is not to imply that Wal-Mart should take that money out of Bangladesh. Rather, Wal-Mart should use its influence to improve working conditions. At the very least, Wal-Mart should expect its suppliers to comply with the law, yet Wal-Mart falls short in even this respect. By law, workers have the right to organize in Bangladesh, but Wal-Mart has chosen to stand by and watch as two of its major suppliers aggressively suppress worker organizing. In 2010, workers at the Envoy and Nassa factory groups reached out to a labor rights non-governmental organization (NGO) to obtain training on worker rights and worker organizing. Soon after, managers at both factories warned workers not to associate with the labor rights educators. At Nassa, a manager announced over the factory loudspeaker that the workers who attend the trainings would not just be fired; they would be kicked out of their houses and forced to move.[13]

Shortly thereafter, Nassa and Envoy both filed criminal charges against the labor rights educators from the NGO and the government alleged that the NGO

leaders had instigated violence and unrest during a series of worker protests against the low wages. Those charges are still pending, forcing the labor rights educators to spend a third of their time in court, and making it impossible for them to conduct their lawful work.[14] Meanwhile, the message to workers is loud and clear: Stand up for your rights and you might end up in prison.

More than 100,000 petitioners, as well as human rights organizations and members of Congress, have urged Wal-Mart to tell its suppliers to drop the charges against the Bangladeshi labor rights educators. Wal-Mart representatives initially said they would raise the issue with the company's suppliers leading activists to believe the company would take a stand against the false charges. More than a year after the charges were filed, however, Wal-Mart reported it was "unable to comply" with the "suggested course of action, as interfering with the judicial process of a sovereign nation is outside the scope of [its] activities."

Take Action!

Tell Wal-Mart to cease its contracts with Nassa and Envoy until false charges against labor rights advocates in Bangladesh are dropped: http://www.LaborRights.org/WalmartPetition

ENDNOTES

[1] *Final Report on the Status of Public and Private Efforts to Eliminate the Worst Forms of Child Labor (WFCL) in the Cocoa Sectors of Cote d'Ivoire and Ghana*, page 55. March 31, 2011. http://www.childlabor-payson.org/Tulane%20Final%20Report.pdf

[2] Heilprin, John. "Nestle Announces Cocoa Child Labor Probe." Associated Press. November 28, 2011.

[3] *Fourth Annual Report: Oversight of Public and Private Initiatives to Eliminate the Worst Forms of Child Labor in the Cocoa Sector in Cote d'Ivoire and Ghana,* page 75. September 30, 2011. http://www.childlaborpayson.org/Final%20Fourth%20Annual%20Report.pdf

[4] Preston, Julia. "Companies Point Fingers as Students Protest Conditions at Chocolate Plant." *The New York Times*. August 18, 2011. http://www.nytimes.com/2011/08/19/us/19students.html

[5] Preston, Julia. "Foreign Students in Work Visa Program Stage Walkout at Plant." *The New York Times*. August 17, 2011. http://www.nytimes.com/2011/08/18/us/18immig.html?pagewanted=1&_r=1

[6] Walmart Watch. "Dukes v. Wal-Mart Stores: A Summary." http://walmartwatch.org/get-the-facts/dukes-v-walmart -stores-a-summary/

[7] Organization United for Respect at Walmart. "Respect Work, Restore America: Why we must make change at Walmart and how we will." October 6, 2011. http://makingchangeatWal-Mart.org/files/2011/10/Respect-Work-Restore-America1.pdf

[8] Ibid

[9] Walmart Watch. "Dukes v. Wal-Mart Stores: A Summary." http://walmartwatch.org/get-the-facts/dukes-v-walmart -stores-a-summary/

[10] United States Supreme Court. "Wal-Mart Stores, Inc, v. Dukes et al." October 2010. http://www.supremecourt.gov/opinions/10pdf/10-277.pdf

[11] "RMG wages too low to even buy minimum amount of food," *New Age*, July 7, 2010. Hossain, Jakir, "Good intentions hardly enough," July 27, 2010, *New Age,* www.newagebd.com

[12] Chowdhury, Syed Tashfin. "Dhaka blaze adds to garment sector toll." December 16, 2010. *Asia Times Online*. http://www.atimes.com/atimes/South_Asia/LL16Df05.html

[13] SweatFree Communities. *Enemies of the Nation.* December 2010. http://www.laborrights.org/sites/default/files/publications-and-resources/enemiesofthenation.pdf

[14] Ibid

The International Labor Rights Forum (ILRF) is an advocacy organization based in Washington, DC dedicated to achieving just and humane treatment for workers worldwide. ILRF serves a unique role among human rights organizations as advocates for and with working poor around the world. We believe that all workers have the right to a safe working environment where they are treated with dignity and respect, and where they can organize freely to defend and promote their rights and interests.

This report is part of ILRF's Freedom at Work campaign which works to empower workers to act collectively to protect their basic rights.