March 8, 2009

Secretary of Labor Hilda Solis
United State Department of Labor
200 Constitution Avenue N.W.
Washington, D.C. 20210

Dear Secretary Solis:

In 1935 when Congress passed the Wagner Act, it specifically excluded "agricultural laborers" and "domestics." Isn't it time for the Obama administration to reverse this injustice and include farmworkers and domestics as an integral part of any reform of the National Labor Relations Act?

To address this question honestly, the best place to start is South Africa, which in 1924 solidified the foundation of apartheid when an alliance of white workers and Afrikaner nationalists formed a Nationalist Labor Pact government. That year the Industrial Conciliation Act was passed, setting up the legal machinery for collective bargaining. "Blacks" were specifically excluded from the definition of "employees" who were to receive the protections of the act.

Now while Congress was not so blunt as to deal out "blacks" and "browns" specifically in their New Deal labor legislation, most farmworkers and domestics are in fact black or brown. For 73 years our sleight of hand has been more subtle but no less damaging because race, powerlessness and economic injustice are inextricably intertwined.

Despite the fact that farmworkers were operating in this legal wilderness, Cesar Chavez led an extraordinary organizational effort in the 60's and 70's when the United Farmworkers won contracts and passage of the California Agricultural Labor Relations Act of 1975.

represented the union from 1967 until 1981 and have always hoped that some day farmworkers throughout the country would have the same protections as farmworkers covered by the California Act. Any just national labor law reform must include farmworkers and domestics. If not now, when?

Yours truly,

Jerry Cohen
(831) 659-5562

Copies to Congressman Howard Berman
LeRoy Chatfield, Director, Farmworker Movement Documentation Project
Mr. Jerry Cohen  
Post Office Box 221577  
Carmel, CA 93922

Dear Mr. Cohen:

This is in response to your letter to Secretary of Labor Hilda L. Solis. In the letter, you expressed support for the inclusion of farmworkers and domestics under the National Labor Relations Act (NLRA) as an integral part of any reform of that Act. Your letter was referred to this agency, the Office of Labor-Management Standards (OLMS).

OLMS administers provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), which regulates certain internal affairs of private sector unions such as the election of union officers, the reporting and disclosure of union financial matters, and the safeguarding of union assets. Additional information regarding OLMS and the laws that we administer can be obtained at www.olms.dol.gov. The issues you raise regarding the expansion of NLRA coverage are not within the purview of OLMS.

For that reason, you may wish to also contact the National Labor Relations Board (NLRB) regarding your views and concerns in this matter, since that is the agency that administers the NLRA. The NLRB is a separate Federal agency, independent of the Department of Labor. You can obtain information concerning the NLRA from the NLRB’s San Francisco (Region 20) Office. The address is 901 Market Street, Suite 400, San Francisco, CA 94103-1735. The telephone number is 415-356-5130. The Web site address of the NLRB is www.nlrb.gov.

I hope this information is helpful to you.

Sincerely,

Andrew R. Davis, Chief  
Division of Interpretations and Standards
Farm Workers’ Rights, 70 Years Overdue

It is more than bank failures and rising unemployment that give these troubled times echoes of the 1930s. An unfinished labor battle from the New Deal is being waged again.

The goal is to win basic rights that farm and domestic workers were denied more than 70 years ago, when the Roosevelt administration won major reforms protecting other workers in areas like overtime and disability pay, days of rest and union organizing.

That inequality is a perverse holdover from the Jim Crow era. Segregationist Southern Democrats in Congress could not abide giving African-Americans, who then made up most of the farm and domestic labor force, an equal footing in the workplace with whites. President Roosevelt’s compromise simply worked women in those industries out of the New Deal.

They were thus sidelined from the labor movement, with predictable results. Though the Dixiecrats have all long since died or repented, the injustice they spawned has never been corrected. Poverty, brutal working conditions and legally sanctioned discrimination persist for new generations of laborers, who are now mostly Latino immigrants.

In New York, advocates are pressing for passage of the Farmworkers Fair Labor Practices Act, which would give these workers the rights that others have long taken for granted, as well as seek badly needed improvements in safety and sanitary conditions in the fields. Domestic workers, meanwhile, are seeking a “Bill of Rights” in Albany covering things like overtime pay, cost-of-living raises and health benefits.

A separate effort begun last week seeks to end these stubbornly lingering injustices for workers in all states by fixing federal law. It was announced on Cesar Chavez’s birthday by old lions of his movement, including Jerry Cohen, who as general counsel of the United Farm Workers helped win passage of a landmark 1975 California law that secured unprecedented rights for the state’s farm workers. The campaign has been joined by a growing number of labor groups and immigrant advocates, like Cardinal Roger Mahony of Los Angeles and the Farm Labor Organizing Committee, which represents migrant workers in the Midwest and North Carolina.

In both campaigns, advocates are counting on a changed political landscape to help their cause. But even with Democrats controlling the New York Legislature, the farm worker bill has languished. It faces fierce opposition from growers and has been eclipsed by the entropy and fiscal crises of Gov. David Paterson’s Albany. In Washington, labor advocates are preoccupied by different battles, like the fight for the pro-union Employee Free Choice Act. Other long-sought immigration reforms have taken a back seat to the budget and health care.

But farm workers are used to long, hard slogs and pitiless heat and cold, with justice as their distant but inevitable destination. The advocates see President Obama and Governor Paterson as ideal candidates to take them there, and are not about to give up. “Any just national labor law reform must include farm workers and domestics,” Mr. Cohen wrote to Labor Secretary Hilda Solis, stating an obvious and compelling truth. “If not now, when?”