

March 8, 2006

Santiago A. Cantón, Esq.
Executive Secretary
Inter-American Commission on Human Rights
Organization of American States
1889 F Street, N.W.
Washington, D.C. 20006, United States

Dear Mr. Cantón:

The undersigned organizations submit this follow-up letter *amici* to our March 2, 2005, letter on the question of corporate and government responsibility for the poor human rights conditions of agricultural workers in Florida (see attached). We write specifically to inform the Commission of developments, on which we believe the Commission may wish to be advised when considering our request in the aforementioned letter, to investigate the conditions among agriculture workers in Florida.

The first is a positive development which is the agreement entered into by YUM!Brands, Inc. and the Coalition of Immokalee Workers (CIW). This agreement brought to an end a four-year boycott of YUM!Brands, Inc, the parent company to such fast food outlets as Taco Bell, Kentucky Fried Chicken and Pizza Hut. The agreement ensures farm workers an additional penny per pound of tomatoes in wages (which almost doubles their wages), as well as commits to creating a participatory monitoring system for slavery and forced labor. Upon entering into the agreement, YUM!Brands, Inc., recognizing that existing laws were inadequate to protect fundamental human rights, issued a public statement which called upon other restaurant chains and supermarkets, along with the Florida Tomato Committee to “join in seeking legislative reform, because ‘human rights are universal and we hope others will follow our company’s lead.’”

The Coalition of Immokalee Workers considers that this is a progressive step towards improving protection of the human rights of agricultural workers in Florida. Since then, the Coalition of Immokalee Workers has reached out to major corporate actors to follow suit, including for example McDonald’s. However, instead of following the lead in human rights standard setting, McDonald’s, has decided to proceed under a recent initiative called SAFE (Socially Accountable Farm Employers), rather than choose to address representatives of the farm workers themselves.

SAFE was formed in 2005 by the Florida Fruit & Vegetable Association, an employers lobby group, and Redlands Christian Migrant Association, a charitable childcare agency. SAFE’s membership is therefore currently composed exclusively of growers and some service providers with no direct involvement of any farm worker led organizations. SAFE’s role will be to offer certification which will signify “that a producer has complied with all applicable laws and regulations governing employment in the jurisdiction in which the company operates.”

We are concerned that if corporations such as McDonald’s are only willing to sign up to the standards and protocols which an initiative like SAFE offers, this in effect undermines genuine attempts to set proper standards of accountability for human rights violations against farm workers in the Florida area, such as the YUM!Brands, Inc. agreement exemplifies.

The standards which are provided for by the SAFE certification process, will in fact do no more than re-iterate the current legal status quo, which as we set out in the original *amici*, has resulted in the abuse of human rights of thousands of farm workers in Florida. Moreover, in its implementation and oversight, farm workers, the victims of the human rights violations themselves, are not included.

For example, SAFE's mandate and code of conduct prohibit only activities by growers that are already illegal and therefore will likely have little effect on improving the human rights conditions detailed in the attached original *amici*. With regards to criminal activity, such as slavery and forced labor, the code falls short in providing effective mechanisms to monitor and enforce the prohibition, and deter violations. Specifically, unlike the YUM!Brands, Inc. agreement, it fails to provide for effective monitoring for slavery through participation by farm workers – the only people who have regular access and complete information about what happens in the fields. It also fails to address the need to prevent slavery by addressing discrimination and basic economic and social rights issues (*see* attached original *amici*).

Significantly, certification by SAFE will also not address the issue of an adequate wage. The “right of everyone to an adequate standard of living ... including adequate food, clothing, and housing and to the continuous improvement of living conditions” has been recognized as fundamental to human freedom and dignity since the founding of the human rights system. **Any company which seeks simply to rely on domestic law to avoid the question of wages does not meet human rights standards.** Existing U.S. law does not ensure wages that preserve the health and well-being of farm workers. Farm workers are among the poorest, if not *the* poorest, laborers in the United States economy.¹ They earn an approximate \$7,500 per year, which is far below the national poverty line.² In addition, farm workers' wages have not changed significantly in over twenty-five years. Relative to inflation, this is a 65% drop in income in the last quarter century.³

In short, mere compliance with domestic law cynically exploits the deficiencies in the U.S. legislative framework to deny farm workers wages that would preserve their well-being and health and rejects the right of farm workers to participate as equal partners in crafting solutions to the human rights crises in Florida agriculture.

Some examples of other failures of the domestic legislation to protect the rights of agricultural workers, as set out in our original *amici*, include the exclusion of farm workers from the National Labor Relations Act, thereby denying them protection for exercising their right to organize, and exclusion from the Fair Labor Standards Act governing overtime provisions. The SAFE code of conduct does not recognize the right of workers to organize and does not provide for overtime pay.

Denying these rights further hampers farm workers' ability to advocate for and ensure decent wages for themselves. It is not co-incidence that most cases of slavery in the U.S. involve farm workers or domestic workers – two groups of workers excluded from basic labor protections. Moreover, as farm workers who have certain kinds of visas are not able to switch employers without facing immigration consequences, this further facilitates slavery and forced labor by undermining a workers' freedom of employment.

We recognize that the primary responsibility for remedying these deficiencies and providing proper respect and protection for the basic rights of Florida's agricultural workers rests firmly with the U.S. government. However, we also recall, that the U.N. Norms on the Responsibilities of Transnational Corporations and other Business Enterprises with Regard to Human Rights state that:

¹ Oxfam America, *Like Machine in the Fields: Workers without Rights in American Agriculture* (2004), at 2 (hereinafter “Oxfam”).

² Coalition of Immokalee Workers, *Frequently Asked Questions* (visited February 27, 2005) <<http://www.ciw-online.org/faqs.html>.

³ Oxfam at p.12-13.

[w]ithin their respective spheres of activity *and influence*, transnational corporations and other business enterprises have the obligation to promote, secure the fulfillment of, respect, ensure respect of and protect human rights recognized in *international as well as national law*.⁴

As noted in our prior letter, the concentration of buying power among a small number of corporate purchasers of agricultural products in Florida makes them uniquely positioned to use their influence to demand greater respect for farm workers' rights and improved working conditions for farm workers in that state. The only remaining question is whether large corporations such as McDonald's are going to use their influence to ensure human rights through their partnerships with growers or whether their actions will only result in validating the existing deficiencies in national law, whereby large food purchasers profit from systemic human rights violations.

There is increasing recognition of corporate responsibility for human rights abuses in supply chains and an extraordinary opportunity has been created to build on the precedent set by the agreement between YUM!Brands, Inc. and CIW to improve human rights standards. We would therefore continue to urge the Commission to conduct a site visit to Immokalee, Florida and ask that when it does so, to take into account the extremely influential role played by corporations such as McDonalds and YUM!Brands, Inc. in order to consider how it might engage with these entities in the course of its inquiries.

We look forward to learning of the Commission's decision with respect to a visit to investigate the conditions of agricultural workers in Florida.

Respectfully,

Amnesty International, U.S.A., Center for Constitutional Rights, Global Rights, Human Rights Watch, National Economic and Social Rights Initiative, Oxfam, America, RFK Memorial Center on Human Rights, U.S. Human Rights Network



⁴ The U.N. Norms on the Responsibilities of Transnational Corporations and other Business Enterprises with Regard to Human Rights, U.N. Doc. E/CN.4/Sub.2/2003/12/Rev.2 (2003), para. 1. These norms, while not yet binding, represent evolving standards of international law.