



# BREAKING GROUND, BREAKING SILENCE:

REPORT FROM THE FIRST NATIONAL  
ASIAN PACIFIC AMERICAN WORKERS' RIGHTS HEARING



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# INTRODUCTION: SILENT NO MORE

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*“Thank you – APALA and AFL-CIO – for giving an ordinary immigrant worker like me a chance to talk about the feelings and experiences of immigrant workers.”*

– Miu Shun Chan, garment worker

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## Introduction

**B***reaking Ground, Breaking Silence* documents findings from the first National Asian Pacific American Workers’ Rights Hearing, a historic gathering of over 200 Asian American and Pacific Islander trade unionists and community allies. The hearing was convened in the Samuel Gompers room of the AFL-CIO headquarters, Washington D.C., on Friday, November 13, 2009. Asian Americans and Pacific Islander (AAPI) workers from around the country spoke about challenges they faced in exercising their right to organize – including employer intimidation, immigrant worker exploitation, health and safety violations, wage theft and union suppression – while also highlighting the strategies that individual workers and unions have developed in the fight for worker solidarity and economic justice.

The hearing was co-convened by the Asian Pacific American Labor Alliance (APALA) and the AFL-CIO, in partnership with over 20 national and local organizations, to provide the first national platform for AAPI workers focused on the right to organize and the rights of immigrant workers. Founded in 1992, APALA is the first and only national organization of AAPI union members to advance worker, immigrant and civil rights. On September 17, 2009, President Richard Trumka, Secretary-Treasurer Elizabeth Shuler and Executive Vice President Arlene Holt Baker were elected as principal officers of the AFL-CIO, a voluntary federation of 57 national and international labor unions that represents 11.5 million members. The AFL-CIO’s participation in the hearing demonstrated their commitment to diversity, strengthening labor and community partnerships and recruiting the next generation of workers.

Historically, AAPI union members have been an integral, if often overlooked, segment of the labor movement despite a vibrant history of Chinese railroad workers, striking Hawaii plantation workers, and Filipino farmworkers.<sup>1</sup> According to the Center for Economic and Policy Research, AAPIs along with Latinos, represent the fastest growing segment of the unionized workforce.<sup>2</sup> These demographic shifts necessitate greater awareness and attention to the nation’s 600,000 AAPI union members.

The purpose of this report is to synthesize the personal triumphs and struggles of AAPI workers in their quest to organize labor unions and advocate for the rights of immigrant workers. These untold stories provide a unique snapshot into the lives of hundreds of thousands of AAPI workers across the country, covering multiple sectors and industries.

APALA encourages workers, labor unions, community allies, student organizations and academic institutions to use this report as an educational tool to engage decision makers on the unique needs, experiences and concerns of AAPI workers. Please contact APALA if you are interested in obtaining the full hearing transcript or DVDs of the hearing.



*“Twenty to thirty years ago, there was very little infrastructure to support Asian American workers. There was no APALA to coalesce a national hearing – but things have changed. Now we can begin the work on making sure Asian American workers know their rights and are given the same labor and wage protections as all Americans.”*

- Congresswoman Judy Chu  
(CA-32)



*“You’re my heroes. Your stories, passion and courage are powerful reminders that we still have more to do.”*

- Liz Schuler, AFL-CIO  
Secretary-Treasurer

## INTRODUCTION



*“Asian Pacific Americans have been part of the U.S. workforce for over 150 years. However, this is the first time in our history that we have had a national hearing on Asian American workers’ rights.”*

- Kent Wong, APALA  
Founding President

## Structure of the Workers’ Rights Hearing

The format of the hearing included two panels, the first focused on the right to organize, and the second on the rights of immigrant workers. Speakers on the right to organize panel included Gulnahr Alam from Andolan, Ruben Bumanglag from the International Longshore and Warehouse Union (ILWU), Xiahong Colucci from the United Auto Workers (UAW), Peter Ho from Unite Here, Cathy Ly from the International Federation of Professional Technical Engineers (IFPTE) and Nicanora Montenegro from the United Domestic Workers/American Federation of State County Municipal Employees (UDW/AFSCME).

Speakers on immigrant workers’ rights panel included Ricky Lau from the International Brotherhood of Electrical Workers (IBEW), Rogie Legaspi from the American Federation of Teachers (AFT), Saravanachelvan Naranasamy from the New Orleans Center for Racial Justice, Aung Oo from the Iron Workers, Miu Shun Chan from Workers United and Tam Tran from Dreamactivist.

The hearing encouraged workers to provide testimony to a distinguished panel of elected officials, government agencies, labor leaders, community allies and academicians. APALA National President John Delloro moderated the session and individual panelists included United States Student Association President Gregory Cendana, Congresswoman Judy Chu (CA-32), Jobs with Justice Executive Director Sarita Gupta, Senior Assistant to the Secretary of Labor Mary Beth Maxwell, University of Maryland Asian American Studies Program Director Larry Shinagawa, AFL-CIO Secretary-Treasurer Elizabeth Shuler and UCLA Labor Center Director Kent Wong.



# DEMOCRACY BROKEN: UNDERMINING THE RIGHT TO ORGANIZE

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*“They would intimidate us by threatening termination, loss of benefits and loss of full time jobs.”*

– Xiahong Colucci, casino worker

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## Introduction

Democracy, one of our nation’s founding principles, is a driving factor in Asian immigration to the United States. So as the Asian American and Pacific Islanders population has increased, so has its presence at the polls.<sup>3</sup> AAPIs have come to represent a growing proportion of voters, and have begun to express themselves at the polls. However, democracy in the workplace has been harder to achieve. While AAPI professionals encounter a glass or “bamboo ceiling” while trying to climb the professional ladder,<sup>4</sup> low-wage and middle income workers trying to assert their rights at work find their voices stifled. So while the AAPI community has increased its share of the electorate, a sense of true political power will be incomplete until they gain a right to collective bargaining within the workplace.

In recognition of the necessity for employees’ voices in the workplace, Congress passed the National Labor Relations Act (NLRA) of 1935, establishing and encouraging the right of employees to form a union. However, due to the steady deterioration of US labor law, workers today must run a gauntlet of employer tactics in order to unionize. A study by Kate Bronfenbrenner in 2009 noted the prevalence of employer intimidation to prevent workers from organizing, in which “employers threatened to close the plant in 57 percent of elections, discharged workers in 34 percent, and threatened to cut wages and benefits in 47 percent of elections.”<sup>5</sup> Finally, “even for those who do win the election, 52 percent are still without a contract a year later, and 37 percent are still without a contract two years after an election.”<sup>6</sup>

For decades, the right to organize in the workplace has provided all workers with a stronger voice on the job and opportunities to address barriers such as language, education, and discrimination. Because of the systematic and legal challenges to forming a union, union density has become diluted while the wealth gap has widened, despite increases in workplace productivity. Since 1975, the bottom 20 percent of households saw only a three percent increase in family income while the top .01 percent experienced a 531 percent increase.<sup>7</sup> This wealth disparity will only be exacerbated unless workers have the ability to form unions without excessive employer interference.

Without strong labor laws to protect the right to organize, employees are prevented from having a voice at work. In this light, the following section addresses three key themes: (1) why workers need unions; (2) obstacles to organizing and (3) possible courses of action when employers fail to bargain in good faith.



*“We often forget that workers are the experts when we discuss workers’ rights. We forget how powerful workers are in keeping us grounded and reminding us what the modern day struggle looks like.”*

- Sarita Gupta, Jobs with Justice Executive Director

## Why Workers Need Unions

Under the National Labor Relations Act (NLRA), workers are guaranteed the freedom to form and join trade unions. However, recognition and enforcement of the law has been steadily eroded as the National Labor Relations Board has become increasingly politicized and immobilized by a paucity of Board Members. Workers decide to form unions for a multitude of reasons including but not limited to perilous working conditions, job injuries, discrimination, lack of pay, and harassment. Consequently workers are fighting for the right to form and join unions so they can have basic rights at work, safer working conditions, and improved wages and benefits.

Aung Oo, a steel worker at a fabrication plant near Pittsburgh called W & K Steel, exemplifies the necessity for unions. Oo came to the United States as a Karen refugee from Burma, wanting nothing more than “citizenship, freedom, opportunity to work and an education for my children.” Unfortunately, his company created intolerable working conditions that included paying refugee workers half of what the other similar workers are paid and forcing them to work in dangerous conditions:

*“There is no safety in the plant and I am afraid of being hurt and not being able to support my family. Some refugees paint the steel and we get dizzy and sick in our stomach from the smell of the paint. There is water on the floor where we work and electric wires are exposed. I really get afraid of the steel when it is stacked and I have to climb onto the pile to hook the crane to it. I am afraid it will fall and I will be crushed. My saw has no way to keep my arm from being cut off. We have received no safety training ever!”*

*I am on strike right now because I believe that in the United States all workers should have equal rights and equal opportunities and equal pay for work. Since I have gone on strike we have been able to tell everyone about us and our fight to stop the exploitation... I stood up and went on strike not only for myself but for all the refugee workers in the shop because our community is suffering.”*



***“(Domestic workers) deal with abuses in the workplace every single day. Many are either not paid or are underpaid... Many do not have healthcare. Sometimes, our members are physically assaulted or sexually abused.”***

- Gulnihar Alam, Andolan

Improved worksite health and safety conditions,<sup>8</sup> as well as fair wage standards, are two of the benefits that workers can achieve by forming unions. Oo also stated that the union has been very helpful to refugee workers by educating them on their rights at work and helping their families obtain green cards.

Like Oo, many workers fight for basic justice and equality in the workplace, even if they are not protected under the law. Gulnihar Alam is a member of Andolan, a group organizing South Asian workers in New York City, including domestic workers not covered by the NLRA who are subject to tremendous employer abuse. Alam, a domestic worker, testified:

*“Our members deal with abuses in the workplace every single day. Many are either not paid or are underpaid. Many work extended hours without rest or sleep. Many do not have healthcare. Sometimes, our members are physically assaulted or sexually abused. Many of our members do not know about their legal rights, and are very isolated... Domestic workers are not guaranteed the right to organize. As a result, workers cannot get remedies for discrimination, organize to pursue our rights, or be protected against bad working conditions. It is important that we begin to recognize the situations of domestic workers,*

*and provide them with the same protections and rights as all other workers... it is vital that federal protections be put into place to ensure that domestic workers are treated like all other workers.”*

All workers including domestic workers deserve to be covered under the same laws. Without fair and equal application of the laws, workers in excluded industries will always be vulnerable to employer abuse.

## Obstacles to Organizing: Workplace Exploitation and Fear of Retaliation

Many workers are fired and retaliated against as they attempt to exercise their right to organize, especially when they speak out against unfair practices at their workplace. A study by Kate Bronfenbrenner found that in one third of organizing drives, employers fire union organizers and supporters.<sup>9</sup> Peter Ho, a lobby porter for HEI’s Le Meridien hotel in San Francisco, explained some of the retaliation he and his co-workers have faced:

*“HEI is waging a nasty anti-union campaign against us, the Union Committee... I worked for almost 20 years full time five days a week. I worked very hard and never got in trouble. But everything changed after I showed support for the union... I started getting only three days of scheduled work instead of five, even though the hotel occupancy remained high. Eventually, I only had two days of work... Mike Ancheta, a cook, was let go right after he came back from a University trip where he spoke with students about our campaign and got quoted in the school newspaper. The hotel claimed they laid off Mike due to the economy but they kept another cook with lower seniority at work.”*

Ruben Bumanglag, a worker at Pacific Beach Hotel in Hawaii, was fired for starting the organizing drive with the ILWU:

*“[It’s] part of their tactics—to intimidate the employees not to vote for the union, and at that time, they even threatened some employees, to harm them, or to harm their relatives. The thing about organizing is that you’re putting yourself on the line. You might get fired, or you might lose your job, or you might not have any schedule. [The] company will do things that make you think twice about trying to organize a workplace. . .*

*At that trial the judge’s ruling found that Pacific Beach violated so many laws, and, according to Pacific Beach, they don’t want to accept that ruling, and they’re going to file an appeal. As for me I guess it takes probably another year or more, waiting for me to get reinstated for my former job. And I guess Pacific Beach think they still above the law.”*

After seven years, workers at Pacific Beach Hotel are still fighting to get their first contract. As a result, management had plenty of time to weed out union supporters. Without strong labor laws to protect workers who speak out, workplace democracy is all too easily silenced.



*“But everything changed after I showed support for the union... I started getting only three days of scheduled work, instead of five, even though the hotel occupancy remained high. Eventually, I only had two days of work.”*

- Peter Ho, UNITE HERE

Unfortunately, labor laws have been weakened by a number of Supreme Court cases including the trio of Kentucky River cases<sup>10</sup> where the Court created a new and expansive definition of supervisor by ruling that charge nurses (amongst others) are supervisors and as such are ineligible for union membership. Furthermore, the NLRB was paralyzed by only having two out of five board members from 2008-2010, exacerbating a tremendous backlog of cases. Indeed, the Supreme Court is set to review 500 cases decided by the only two confirmed NLRB members, based on the question of whether a two person board constitutes quorum and can legally decide NLRB cases.<sup>11</sup>

In order to prevent employers from exercising undue intimidation in response to workers' desire to unionize, workers have increasingly abandoned NLRB elections and turned to majority sign-up. In cases where workers have been able to join unions through majority sign-up, employers agree to allow workers to make their own choice, without employer intimidation. In these instances, if a majority of employees sign cards to show that they want to form a union, then they are legally recognized as a union by the National Labor Relations Board (NLRB) and the employer. From 2003-2008, over half a million workers in hotel, casino, home care, package delivery, and education jobs have joined unions through majority sign-up.<sup>12</sup> Over the past several years, only 20 percent of workers have joined unions through NLRB elections; the vast majority, 80 percent, have joined unions through majority sign-up or other methods.<sup>13</sup>

### The High Costs of No Contracts

Another challenge that AAPI workers face when attempting to exercise their right to organize is the difficulty of obtaining a first contract, which is the first time that workers and management sit at the negotiating table to determine a jointly agreed upon work contract that includes clearly stated benefits, a grievance process, and other workplace rights. Unfortunately, only one fifth of all organizing drives result in a first contract<sup>14</sup> especially when employers engage in unfair labor practices such as intimidation. Employers spend millions of dollars on union-busting consultants<sup>15</sup> to stall negotiations and fail to bargain in good faith with the union, in order to prevent workers from obtaining better wages and working conditions. Because it can take years between winning the union vote and signing the first contract, bosses have free rein to harass union supporters in the interim.

Cathy Ly, a civil engineer at Pacific Gas and Electric (PG&E), testified that she was confronted with a barrier of a prolonged contract negotiations process. As a member of the International Federation of Professional and Technical Engineers (IFPTE) Local 20, she confirmed that after eight months, management declared an impasse and refused to bargain.

*“Employees picketed PG&E’s headquarters, something that had not been done by any PG&E employees in at least 20 years. Eventually the union put management’s “last, best and final offer” out to a vote, which was rejected by a two-to-one vote. After the rejection, management stopped bargaining, implemented their proposals, except that they reduced compensation for my department by 10 percent.*

*PG&E did not negotiate in good faith – they did not really negotiate at all... My experience demonstrates the need for first contract mediation and arbitration... Current labor law allows management to impose working conditions unilaterally and provides no effective remedies against management’s refusal to bargain.”*



*“As a young professional female, I may not evoke the image of a typical union member, but I represent thousands of young professionals who understand the power of collective bargaining and the importance of being in a union.”*

- Cathy Ly, IFPTE



Independent arbitration provides a clear path for management and the workers to come to the table as equals in negotiation, and for workers to be able to have a contract in a meaningful amount of time. Otherwise, companies frequently stall and delay, preventing workers who have chosen to form a union from exercising their right to actually negotiate the terms of their employment. While there is no contract, management remains free to continue the workplace abuses that led workers to form a union in the first place.

Xiahong Colucci, a dealer at the Tropicana and Hilton Casinos in Atlantic City, also experienced many issues with her first contract negotiations. Colucci testified to the plight of casino dealers:

*“I’m here to tell the untold story of thousands of dealers in Atlantic City who are actively fighting to get our first contract. This is common in an industry where the starting salary for dealers is \$4.00 per hour and we must rely on tips to survive. The companies allow customers to abuse us with little protection, where part-time jobs without benefits become the norm; there is a total lack of simple fairness.*

*Instead, our employers are using every legal trick in the book to avoid true collective bargaining. This is why we are called the poster child for labor law reform: had we been able to organize under the Employee Free Choice Act we would have contracts at all four casinos by now and not had to suffer the threats and intimidation. In America, no one should have to put up with this, simply by exercising our legal rights.”*

Colucci and the other workers in Atlantic City voted over two years ago to join the United Auto Workers union. Yet they still have no contract because the casinos refuse to bargain in good faith. The UAW has requested binding arbitration to settle the dispute with Harrah’s Corporation, but the casino’s management has not responded. In this case, thousands of casino workers have had their voices silenced because there are no effective remedies that deal with employers who refuse to bargain.

The ability for workers and employers to settle differences through arbitration simply provides an alternative for employers to bargain in good faith and settle contracts. Indeed, 90 percent of the time, the two parties decide not to use an independent arbitrator and settle on their own.<sup>17</sup> Furthermore, the negotiated benefits oftentimes reflect agreements negotiated through collective bargaining. First contract arbitration would even the playing field so that workers are able to join unions and negotiate contracts without stalling tactics and undue employer intimidation.



*“I’m here to tell the untold story of thousands of dealers in Atlantic City who are actively fighting to get our first contract. This is common in an industry where the starting salary for dealers is \$4.00 per hour and we must rely on tips to survive.”*

- Xiahong Colucci, UAW

# OUT OF THE SHADOWS: IMMIGRANT WORKERS' RIGHTS

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*“Our case highlights how immigrant workers, who may not speak English or know their rights, can be victimized by greedy employers who cheat workers by not paying the proper wage.”*

– Ricky Lau, electrical worker

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*“Most of the refugees in the plant make half of what the Americans make. We believe that we should be paid equal to them. We do the same work.”*

- Aung Oo, Ironworkers

## Introduction: A Community Silenced

Although the national popular debate around immigration reform has largely excluded AAPI communities, this issue strikes at the heart of these communities. Nearly 40 percent of all immigrants in the United States hail from Asia and almost two-thirds of AAPIs are foreign born. Additionally, 1.2 million lack proper documents.<sup>18</sup> AAPIs continue to arrive at a rate higher than any other racial group,<sup>19</sup> including Latinos. AAPIs have come to play a crucial role in bolstering a number of industries and creating jobs in such fields as health care, technology, small business, and government, rendering immigration reform an urgent issue for the entire nation.

U.S. immigration law has long discriminated against AAPIs. In 1882, the passage of the Chinese Exclusion Act prohibited workers from entering this country solely based on their nationality. This led to a downward spiral of immigration restriction based on race. Eventually, the 1917 Immigration Act created an “Asiatic Barred Zone” expanding the sphere of exclusion to include more Asian countries and culminated in the 1924 National Origins Act, which forbade entrance to non-citizens “ineligible for citizenship,” de facto impacting AAPIs. The first national law to determine citizenship, the Naturalization Act of 1790, restricted citizenship to only “free white persons.” Even as the law would be changed to include African Americans, AAPIs continued to be excluded for over 160 years which essentially designated AAPIs as the first community to be denied entry into the US based on race. Although most of these laws would be repealed by 1943, they were replaced by discriminatory quotas which gave preference to European immigrants until 1965.<sup>20</sup>

Prior to 1965, AAPI immigrants who made it behind U.S. borders walked a road to citizenship which was fraught with either impenetrable barriers or walls too steep to climb. Additionally, employers took advantage of their workers’ immigration status. They subjected AAPI workers to work conditions worse than U.S. born workers and threatened immigrant workers with reprisals. Congress would attempt to rectify these racial biases by passing the Immigration Act of 1965. However the testimonies given at the first National Asian Pacific American Workers Rights Hearing reveal that several of the factors that have rendered AAPI communities vulnerable in the past persist today. This section highlights the barriers that AAPI immigrants still face and presents an example of how immigrant workers can unite to defeat an unscrupulous employer. Three themes emerge from their stories: (1) Workplace Exploitation, (2) Fear of Retaliation, and (3) Obstacles to Immigration: No Clear Path for Citizenship.

## Workplace Exploitation

AAPI immigrant workers, regardless of documentation, face substandard workplace conditions by employers exploiting their immigrant status. Aung Oo, a Karen refugee from Burma, testified to the unequal treatment he faced in contrast to American workers:

*“I have worked there for three years now and make \$9.50 per hour but the company pays me half compared to the American workers. There is wage discrimination for the other refugee workers at the plant. Most of the refugees in the plant make half of what the Americans make. We believe that we should be paid equal to them. We do the same work.”*

Employers paying immigrants and their American-born counterparts unequal amounts for performing the same work is only one example of workplace exploitation. Historically, Asian American and Pacific Islander workers have been subject to workplace intimidation, including the tens of thousands of Chinese workers who were brought to the West Indies as indentured servants<sup>21</sup> and Indian and Chinese workers (some of whom were tricked) who left their homes and loved ones to work for pennies on the railroads, facing difficult and unsafe conditions. They were forced to pay back the costs of their overseas trip, and consequently kept very little of what they were paid. Shockingly, AAPIs are still locked into indentured servitude even today.

Filipino teacher Rogie Legaspi who left medical school in the Philippines to teach in Texas, found himself in a form of indentured servitude upon arriving in Houston. He and other Filipino recruits were charged two different amounts by the Philippines-based recruitment agency and the U.S.-based recruitment agency. And although living arrangements had been promised, 18 teachers were forced to share one room for sleeping quarters. He testified to a form of indentured servitude that recalls memories of the conditions that the first “coolies” faced while working on the railroads:

*“It took me 12 years to summon the courage to tell my family about my whole ordeal because I felt shame that despite my education and assertiveness, I was helpless and hopeless in this country, famous for being the land of opportunities. Filipino and other foreign-born teachers experience abuse in the U.S. but refuse to assert their rights in the absence of a strong support system especially in non-union states like Texas.*

*Even professional migrants tend to shrink from asserting their rights under the law for fear of the subconscious immigration sword always hanging over our heads. This is the main reason why abuses perpetrated on migrants go unreported.”*

AAPI immigrant workers still face employers who will continue to take advantage of workers based on their citizenship status. Unfortunately, immigrant workers’ rights have been eroded by institutions such as the U.S. Supreme Court, which ruled in *Hoffman Plastics Compound, Inc. v NLRB* (2002) that despite the company’s violations of the National Labor Relations Act, an undocumented worker who had been laid off for trying to organize a union did not deserve back pay for lost wages. The case applies penalties to immigrant workers that are not imposed on native born workers, and further degrades the ability of the NLRB to enforce the NLRA, weakening the sense of democracy and equality within the workplace.<sup>22</sup>



*“It took me 12 years to summon the courage to tell my family about my whole ordeal because I felt shame that despite my education and assertiveness, I was helpless and hopeless in this country, famous for being the land of opportunities.”*

- Rogie Legaspi, AFT

Xiaohong Colucci testified that her casino employer used immigration status as a wedge in the workplace:

*“They sought to divide us by race and language. They thought they could scare us by threatening us if we did not have American citizenship. They would intimidate us by threatening termination, loss of benefits and loss of full time jobs.”*

Sadly, Colucci was not the only one to describe how employers threaten immigrant workers. Ricky Lau, an electrical worker in San Francisco, explains how his former boss Monica Ung, owner of NBC Contractors, engaged in wage theft and tax fraud, unfairly cheating him and his coworkers out of \$3.6 million in unpaid wages and \$1.5 million from California taxpayers.<sup>23</sup>

*“I have to explain how we received our paychecks. On one time card, we would put down the actual hours that we worked, typically 60 to 70 hours. On another time card, the company would put down 16 to 20 hours and pay us for those hours. She was cheating on the wages owed to us as well as the taxes owed to the state of California. We would not get paid unless we signed the fake time card, the one with the lesser hours.”*

The workers helped lead to the arrest of Monica Ung by working with the International Brotherhood of Electrical Workers (IBEW), and building strong community support. As a result of investigations by the Alameda County District Attorney's Office, Ung was indicted on 48 felony counts including allegations of massive wage theft, insurance fraud, and perjury, involving millions of dollars. Lau is now a member of IBEW Local 6. The NBC workers' story is one example of how immigrant workers can shine a light on employer abuses with the help of unions and helpful government agencies. Unfortunately, wage theft is only too common, as a survey conducted in 2008 found that 76 percent of those who worked overtime were not paid the legally required overtime rate.<sup>24</sup> Unfortunately, most immigrant workers facing workplace exploitation remain in the dark, toiling silently in the shadows.

## Fear of Retaliation

Even if AAPI immigrant workers wish to address their worksite issues, they face intimidation and threats of reprisals from their employer. Saravanachelvan Naranasamy is one of more than 500 other Indian H-2B guestworkers who were lured to the United States by the shipyard company Signal International with false promises of a green card and charged \$20,000 per person in order to immigrate to America. Their plight received nationwide attention when they accused the company of illegal human trafficking and staged a walkout, risking deportation in order to expose the injustices that they endured. Ultimately, they faced not just company intimidation but they also experienced direct intimidation from the US Immigration Customs Enforcement (ICE), which collaborated with the Signal managers in providing strategic guidance on how to fire the workers and force them to leave the country.<sup>25</sup>

Naranasamy and the other guestworkers were faced with deportation just for standing up for themselves. Intimidation and the threat of reprisals created a coercive environment which perpetuated abuses in the workplace. In addition, Signal workers were bunked 24 people to a room. Each was charged \$1,050 per month in rent, deducted from their paychecks.<sup>26</sup> Naranasamy declared:

*“For the last two years, we have defended ourselves against attacks from Immigration Customs Enforcement (ICE). Why, because we are guestworkers who organized, because we put our faith in the American justice system, and because we told the truth in public... The covert surveillance by ICE was the most terrifying experience I have had in America.*

*It was more terrifying than the labor camps of Signal International. We did not know if we would be arrested and deported. The only thing we knew was that we had to keep marching... Is this America, the home of the free, where I might be deported tomorrow because I am standing here in public and telling the truth today?”*



*“Is this America, the home of the free, where I might be deported tomorrow because I am standing here in public and telling the truth today?”*

- Saravanachelvan  
Naranasamy, New Orleans  
Center for Racial Justice

Immigrant workers are constantly afraid of speaking out against workplace abuses because employers threaten to use their immigration status against them. This problem is compounded by the Immigration Reform and Control Act of 1982, which made it illegal to knowingly hire undocumented employees and created sanctions against employers that did so. The law simply increased the imbalance of power between employer and employee and created an incentive for the employer to create false documents or to overlook doctored paperwork.<sup>27</sup> Immigrant employees also suffer in silence when they fear to expose unsafe working conditions. A 2005 AFL-CIO report found that fatalities among foreign-born workers actually increased by 46 percent between 1992 and 2002.<sup>28</sup> When employers threaten to use their workers' immigration status against them, no one wins and general workplace standards deteriorate.

## Obstacles to Immigration: No Clear Path to Citizenship

Another obstacle that AAPI workers face is the lack of a clear path to citizenship due to procedural and administrative hurdles including family backlogs. Family reunification is the primary way that Asian immigrants enter this country. Families provide the necessary support and enable the successful integration of immigrants into larger society and promote the overall national welfare. Family members helped many AAPI immigrant workers survive and persist in their working conditions and become productive members of society.

Over 46 percent of immigrants waiting to re-unite with kin in the US are from Asian countries and over 90 percent of AAPI green cards result from family reunification.<sup>29</sup> Consequently, reductions and administrative backlogs in this category disproportionately impact AAPIs more than other groups as there are about 4 million Asians waiting to rejoin their family here.<sup>30</sup> Although the majority of AAPIs come through family reunification, a significant number of AAPI immigrants are undocumented. This is not a new trend but rather it dates back to the paper sons and daughters who forged documents and relationships to join lost “family” members here after the San Francisco earthquake of 1906 which destroyed city hall and all birth records. AAPIs came then, as they do now, without documents, due to the historically restrictive nature of immigration legislation and the broken and antiquated immigration system.<sup>31</sup>

Approximately 1.2 million AAPI immigrants have arrived on the shores of the United States with no clear path for citizenship, and instead wind up in the largely unregulated underground economy.<sup>32</sup> The issue of undocumented immigrants frequently is not discussed within the community and sometimes does not even arise until children are ready to go to college, when they discover that they are ineligible for financial aid. Due to the broken immigration system, 65,000 undocumented high school students,<sup>33</sup> many of whom are AAPI, graduate from high school every year and face uncertain futures. In the University of California system alone, AAPI

## IMMIGRANT WORKERS' RIGHTS



***“When our family’s case for asylum was denied, my brother and I became people without a country.”***

- Tam Tran, Dreamactivist

students account for 40-44 percent of the undocumented population.<sup>34</sup> Tam Tran, a DREAM activist and Ph.D. student testified about coming to the United States as a refugee after the Vietnam War.

*“My parents are Vietnamese refugees who fled after the fall of Saigon and were rescued by a German ship. They were brought to Germany and years later, my parents began their family, both my brother and I were born in Germany. When I was six, we all moved to the United States to reunite with our extended family who had come to California as refugees also. When our family’s case for asylum was denied, my brother and I became people without a country. We were given a deportation order to return to Germany; however, because Germany doesn’t grant birthright citizenship, Germany wouldn’t let us return because we were never German citizens. Since then we’ve continued living in the United States because we have nowhere else to go, yet with a deportation order we no longer have a path to citizenship...”*

Tam also described the plight of a friend whose family had brought her to America at five years old, and who had a job offer upon graduating with a Masters in Education.

*“[B]ut in the end due to this country’s archaic immigration laws, my friend was told that it was impossible to do an employer sponsorship without her having to face a ten-year ban for being here without papers... Now instead of being an educator in a school district that desperately needs math teachers and having a job to support her parents and siblings, she works as an underpaid dental assistant being paid off the payroll as she and her family share a one-bedroom apartment.”*

The absence of a legalization process for talented students like Tam and her friend has channeled a highly educated and trained group of young people into largely unregulated industries rampant with labor violations. These students, who could be the pioneers and leaders of tomorrow, are instead stuck in the underground economy. However, the majority of undocumented immigrants in this country are not students who grew up here speaking English but rather they are low-wage workers or guestworkers who also lack the time or money to attend college, many of whom do not speak English and are not knowledgeable about their rights in the workplace, characteristics that unsavory employers look to exploit.

# DEMOGRAPHIC SNAPSHOT: ASIAN AMERICAN & PACIFIC ISLANDER WORKERS

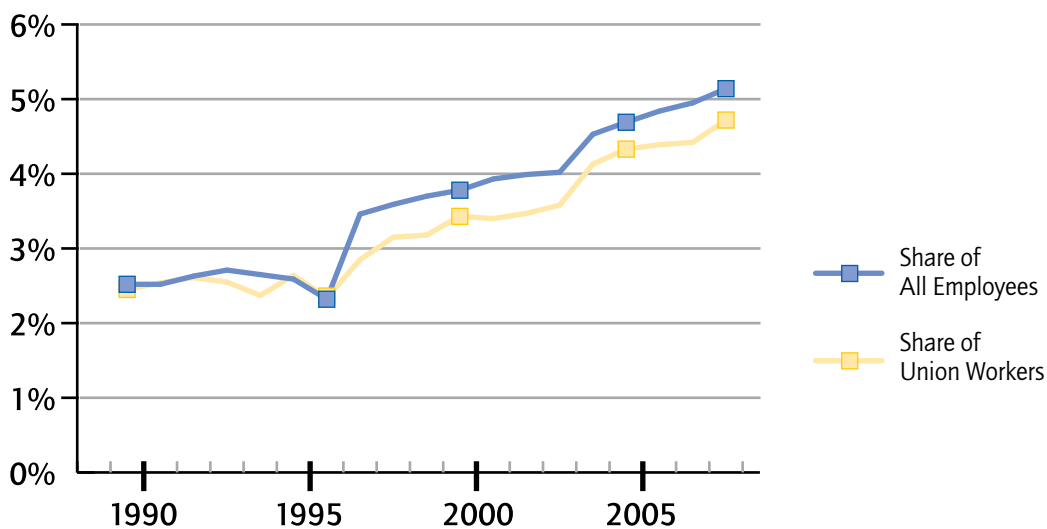
*“...Asian Americans and Latinos represent the fastest growing segment of unionized workers. This demonstrates that labor’s efforts to focus on diversity over the last few years have successfully opened the doors to include more women and people of color than ever before. We also know that we still have more work to do.”*

- Liz Schuler, AFL-CIO Secretary-Treasurer

## Executive Summary:

Asian Americans and Pacific Islanders, along with Latinos, represent the fastest growing segment of the U.S. workforce. Additionally, these same groups also represent the fastest growing group in organized labor. Of the 750,000 AAPI union members in the United States, approximately two-thirds are immigrants. The gender composition of AAPI union members is fairly equal with men representing 51.5 percent and women accounting for the remaining 48.5 percent. Finally, over three-quarters of AAPI union members are concentrated in Pacific and Northeast states.

## AAPI Workers Represent Fastest Growing Group



**Demographic Composition of Asian Pacific American Workers, 2003-2007**

	Asians		All		Unionization Rate	
	Unions	All	Unions	All	Asians	All
	(Thousands, Annual Average)				(Percent)	
<b>All</b>	755,420	6,350,019	17,172,531	131,364,743	12.5	13.6
	(Percent)				(Percent)	
<b>Male</b>	51.5	53.1	55.8	52.8	12.3	14.7
<b>Female</b>	48.5	46.9	44.2	47.2	12.8	12.5
<b>Age</b>						
16-24	6.0	11.8	6.1	14.7	6.1	5.4
25-34	22.9	27.8	19.4	22.3	10.1	11.7
35-44	25.5	26.9	26.3	24.4	12.0	14.8
45-54	27.1	20.7	30.2	23.1	16.8	18.1
55-64	16.2	10.5	16.0	12.4	19.9	18.0
65+	2.4	2.4	2.0	3.1	13.3	9.4
<b>Region</b>						
Northeast	21.3	19.3	27.5	18.8	13.9	19.9
Midwest	8.5	12.2	27.4	23.3	8.7	16.0
South	7.0	20.3	19.4	35.5	4.4	7.5
West	3.2	4.3	4.8	6.9	9.3	9.6
Pacific	60.0	43.9	20.9	15.5	16.9	18.3
<b>State</b>						
CA	40.5	32.5	15.1	11.5	15.5	17.8
NY	13.3	9.2	12.2	6.3	18	26.2
HI	13.5	6.3	0.8	0.4	26.4	25.3
TX	1.1	5.7	3.4	7.4	2.5	6.2
NJ	4.9	4.8	4.8	3.1	13.2	21.3
WA	4.6	3.7	3.3	2.2	15.4	20.8
NV	1.9	1.4	1.0	0.8	17.4	16.0
<b>Education</b>						
Less Than HS	4.6	7.0	5.4	10.3	8.1	7
HS	20.5	19.9	31.1	30.8	12.8	13.6
Some college	25.1	21.4	28.6	28.9	14.5	13.5
College	34.3	31.6	20.2	19.9	13.6	14.1
Advanced	15.4	20.0	14.7	10.0	9.8	20.7
<b>Immigrants</b>	66.1	71.2	11.9	15.0	11.7	10.8
<b>Full-time</b>	89.2	84.3	90.4	82.2	13.3	15
<b>Part-time</b>	10.8	15.7	9.6	17.8	8.5	7.3
<b>Non-Manufacturing</b>	91.9	86.1	87.4	87.3	13.4	13.7
<b>Manufacturing</b>	8.1	13.9	12.6	12.7	7.1	13.3
<b>Private Sector</b>	56.8	87.2	52.1	84.6	8.2	8.5
<b>Public Sector</b>	43.2	12.8	47.9	15.5	40	40.5

Notes: Based on Analysis from Center for Economic and Policy Research Report: "Benefits of Unionization for Asian Pacific American Workers"



## AAPI Workers: The Union Advantage

The union advantage for AAPI workers is clear. Even after controlling for age, education level, industry and state, AAPI union members earn about 9 percent more than their non-union counterparts, which equates to about \$2.00 per hour more. The union advantage also encompasses health insurance and pension. AAPI union members are 19 percent more likely to have health insurance and 25 percent more likely to have a pension than their non-union counterparts.

The union advantage is greatest in the 15 lowest-paying occupations. In these low-wage occupations, AAPI union members earn about 12 percent more, are 24 percent more likely to have employer-provided health insurance and 31 percent more likely to have a pension.

### Wages, Health, and Pension Coverage for Union and Non-Union Asian Pacific American Workers, 2003-2007

	Median hourly wage		Health-insurance		Pension		
	Union share	Union	Non-union	Union	Non-union	Union	Non-union
All	12.5%	\$21.66	\$17.93	76.8%	55.5%	69.0%	40.1%
Men	12.3%	\$22.06	\$20.54	81.2%	59.8%	65.0%	41.6%
Women	12.8%	\$21.36	\$15.58	71.9%	51.0%	73.4%	38.5%
In low-wage occupations	14.1%	\$13.35	\$10.39	66.7%	37.0%	60.8%	22.0%



*“Through the work of our union...we negotiated for increased wages and health benefits...for 3,000 homecare providers. We also established a fair process for workers through grievance procedures and state hearings.”*

- Nicanora Montenegro, UDW/AFSCME

### AAPI Workers: A Demographic Snapshot

- Two-thirds (66.1 percent) of AAPI union members are immigrants
- Women represent nearly half (48.5 percent) of all AAPI union members
- Over 40 (43.2 percent) percent of AAPI union members work in the public sector, a much higher share than the overall AAPI workforce (12.8 percent), but slightly lower than the overall union workforce (47.9 percent).
- More AAPI workers work in the public sector (815,000) and are unionized workers (755,000) than are self-employed (477,000).
- Asian countries comprise five out of the top 10 countries of birth of immigrant workers: Philippines (4.9 percent), India (4.9 percent), China/Hong Kong (4.2 percent), Vietnam (2.8 percent) and Korea (2.2 percent).

# RECOMMENDATIONS: MOVING FORWARD

The workers who testified at the First National Asian Pacific American Workers' Rights Hearing represent the voices of AAPI union members, as well as the countless faces of AAPIs that are fighting to join a union. Their inspirational stories reflect personal courage and conviction, and their struggle also demonstrates the need for significant labor law reform. Based on the testimony received, we have identified a number of important legislative and administrative goals to support the rights of AAPI workers.



*“The stories we’ve heard are unacceptable. But the power of your testimony and the power generated in this room sends a clear message and the Department of Labor is proud to work with you. We can, we must and we will win justice for Asian Pacific American workers, and all workers.”*

– Mary Beth Maxwell, Senior Advisor to the Secretary, US Department of Labor

## Pass the Employee Free Choice Act

Union members enjoy higher wages, and are more likely to have employer-provided health insurance and a pension. In particular, AAPI union members earn nine percent more, are 19 percent more likely to have employer-provided health insurance and 25 percent more likely to have an employer-provided pension.<sup>35</sup> However, workers seeking to join unions are beset by employers who suppress workplace democracy through illegal intimidation and firing as well as prolonging first contract negotiations.

The Employee Free Choice Act would ensure workers have the freedom to unite on the job and bargain collectively with their employers for better wages, benefits, and working conditions. The three fundamental elements of the Employee Free Choice Act include: 1) Allowing workers the choice to organize a union through a simple majority sign-up process; 2) Increasing penalties against unscrupulous employers who violate the law; and 3) Promoting a mediation and arbitration process to guarantee productive first contract negotiations.

In addition to federal legislation, states can also take action to allow workers to join unions through majority signup. State legislatures can enact bills and governors can sign executive orders allowing a particular class of worker to gain card check neutrality. A good example is Hawaii’s HB 952 (2009), which allows certain agricultural workers to join unions through majority sign-up. There are now 22 laws in 12 states that grant certain public and private employees the right to form unions through the majority sign-up process.<sup>36</sup>

### NEXT STEPS:

1. Request Members of Congress to co-sponsor the Employee Free Choice Act (H.R. 1409/S. 560).
2. Request the White House Initiative on Asian Americans and Pacific Islanders to include workers’ rights into program priorities.
3. Request state representatives and elected officials to enact state bills incorporating the main provisions of the Employee Free Choice Act.

## Pass Comprehensive Immigration Reform

Our immigration system is broken and needs to be fixed. The current system allows employer intimidation of undocumented workers, abusive conditions for temporary workers and long backlogs in the family immigration system.

APALA believes that comprehensive immigration reform should avoid xenophobic enforcement-only proposals. Instead, immigration reform should seek solutions that advance the rights of all workers; respect civil rights and liberties, and promote the full participation of immigrants in

our society. Thus, APALA supports comprehensive immigration that promotes protections for all workers, family reunification, immigrant integration, a path to legalization for undocumented immigrants and due process.

### **NEXT STEPS:**

1. Request that Members of Congress support the AFL-CIO and Change To Win Joint Principles of Immigration Reform.
2. Overturn or reverse *Hoffman vs. Plastics* to protect the rights of all workers to file complaints with the U.S. Department of Labor without fear of deportation.
3. Improve oversight of recruitment agencies for temporary workers.

## **Pass the Federal DREAM Act**

There are more than two million undocumented immigrant youth and students throughout the country, including large numbers of AAPIs. Each year approximately 65,000 undocumented immigrant students graduate from U.S. high schools with fewer prospects to achieve economic prosperity.<sup>37</sup> These young people had no control over the decision to immigrate to this country, and for many, this is the only country they have ever known and English the only language that they speak.

Due to the broken immigration system, there is no opportunity for the majority of these young people to obtain legal status. Unless there is a change in immigration law such as the federal DREAM Act, these young people will forever be relegated to a life in the underground economy.

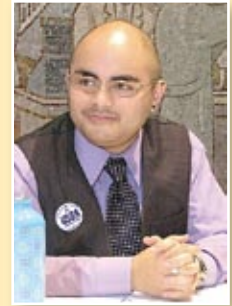
The DREAM Act of 2009 (H.R. 1751/S. 729) will provide a path to legal status for individuals brought to the U.S. as children who display good moral character, who came to the U.S. at age 15 or younger, and have lived in the U.S. for at least five years before the date of the bill's enactment. They would qualify for conditional permanent resident status upon acceptance to college, graduation from a U.S. high school, or being awarded a GED in the U.S. If the student completes at least two years of college or serves in the military, they would become permanent residents. Undocumented students in ten states already have the ability to go to college without paying prohibitively high tuition rates.<sup>38</sup> Now all students across the United States should have an equal chance at higher education.

### **NEXT STEPS:**

1. Request Members of Congress to co-sponsor the DREAM Act (H.R. 1751/S. 729).
2. Encourage state governments to pass in-state tuition for undocumented students.

## **End Wage Theft Abuse**

Immigrant workers, due to immigration status, lack of educational attainment or English proficiency, face the potential of additional abuses in the workplace. A 2009 study by the National Employment Law Project found that an overwhelming 68 percent of low-wage workers, regardless of their citizenship status, reported millions of dollars lost to wage theft each year.<sup>39</sup> This epidemic is prevalent amongst AAPI workers who are cheated out of minimum wage, overtime, misclassification as independent contractors, and in the most egregious cases, not paid at all.



*“I want to thank APALA and the AFL-CIO for their commitment to engage young workers and students. I look forward to continuing to build alliances to ensure that students and young people have a strong voice in the labor movement.”*

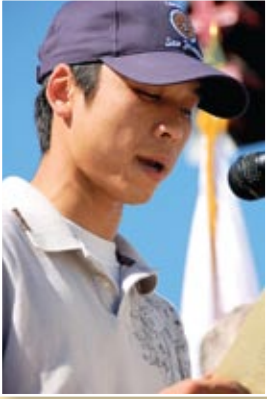
- Greg Cendana,  
USSA President



*“Each year the DREAM Act or comprehensive immigration reform doesn’t pass, families are also being torn apart through raids and deportation.”*

- Tam Tran, Dreamactivist

## RECOMMENDATIONS



*“We would not get paid unless we signed the fake time card, the one with the lesser hours.”*

– Ricky Lau, IBEW

Such employers decrease general labor standards and violate workers’ rights. There is a need for increased resources to ensure that enforcement of wage and hour violations, and prevailing wage infractions, are enforced by the Department of Labor. Government must end the pervasive problem of wage theft by increasing penalties for violators and increasing resources for inspections. For example, in 2004, California recovered over \$104 million for workers and taxpayers through a statewide program to combat these abusive practices. States including New York, Washington, and New Mexico already have strong laws or government agencies that investigate and penalize employers who cheat their employees, ensuring a level playing field for all employers.

### NEXT STEPS:

1. Request Members of Congress to co-sponsor the Wage Theft Prevention Act (H.R. 3303), which proposes extending the statute of limitations while the Wage and Hour Division of the Department of Labor investigates the claim of wage theft.
2. Request Members of Congress to co-sponsor the Employee Misclassification Prevention Act (S. 3648) to increase penalties under the Fair Labor Standards Act (FLSA) against unscrupulous employers who misclassify workers as independent contractors and deprive them of minimum wage, overtime and labor protections.
3. Encourage the Department of Labor to use all sanctions available under the FLSA against employers who commit wage theft, including criminal prosecutions for employers who do so willfully.
4. Increase protection for workers who speak up, and add tools that the Department of Labor and courts can use to investigate cases and recoup money that workers are owed.

## Strengthen OSHA Protections and Enforcement

Immigrant workers often face hazardous and unsafe working conditions. Thus, providing additional resources for the Department of Labor can provide increased oversight of health and safety violations on the job. Additionally, part of the reason that employers persist in allowing harmful workplaces is because the fines for violating Occupational Safety and Health Act (OSHA) law are minimal<sup>40</sup>, and can be furthered reduced by the company through the appeals process. The ultimate fines may result in no more than a slap on the wrist, leaving employers little incentive to adhere to current labor laws. APALA is encouraged by Secretary of Labor Hilda Solis’ pledge to focus on worker safety during her tenure.

### NEXT STEPS

1. Request Members of Congress to co-sponsor the Protecting America’s Workers Act (H.R. 2067, S. 1580), that would strengthen OSHA civil and criminal penalties, expand OSHA coverage, and strengthen anti-discrimination protections and workers’ rights.
2. Provide increased resources to Department of Labor to hire more compliance officers to enforce health and safety laws.
3. Provide increased resources to Department of Labor to hire increased numbers of culturally competent officers to work with AAPI communities.

## Protect Domestic Workers

Domestic workers, many of whom are Asian immigrants, are excluded from the National Labor Relations Act, leaving them vulnerable to exploitation and abuse from current labor laws. Inclusion in the National Labor Relations Act will provide workers with the right to organize to combat the myriad of workplace abuses, include wage theft and domestic violence. Additionally, the Occupational Safety and Health Act, Fair Labor Standards Act, Title VII of the Civil Rights Act, Americans with Disabilities Act, and the Age Discrimination in Employment Act exclude an overwhelming majority of domestic workers. APALA supports including domestic workers in the National Labor Relations Act, which would allow this classification of workers to form or join unions.

### NEXT STEPS

1. Amend the National Labor Relations Act to include domestic workers to guarantee basic workplace protections and workplace standards for currently excluded workforce.
2. Amend regulations pertaining to meal and lodging credits to ensure that employers do not reduce a worker's salary without proof that the deduction does not vastly exceed the benefit.
3. Improve the structural response to domestic worker concerns by creating a specialized Domestic Worker Bureau within the Department of labor.

## Promote Language Access and Data Collection and Dis-Aggregation

Asian Americans and Pacific Islanders are an extremely diverse group, encompassing many ethnicities and languages. Thus, it is imperative that government agencies at the local, state, and federal levels ensure that government services and resources are available in a variety of languages. Without resources and programs specific to different ethnicities, AAPIs will not receive adequate care at hospitals, have equal access to the voting booth, or receive an equal education.<sup>41</sup>

Just as necessary is the need to gather information for each sub-ethnic group to get an accurate portrayal of a wide range of critical data related to the economic health and well being of these diverse groups. Without this data, it is difficult to measure community needs along a host of issues like unemployment, unionization and other issues. These two sides of the same issue – community access and measurement – form the basis of how AAPIs are served by public and private institutions, as well as how they function within the workplace.

1. Request all Federal Agencies implement Office of Management and Budget Directive 15 that further promotes the collection of data.
2. Request all Federal Agencies to collect and disaggregate Asian American and Pacific Islander sub-populations.
3. Request all federal, state, and local agencies to promote language access.



*“Domestic workers are not guaranteed the right to organize. As a result, workers cannot get remedies for discrimination, organize to pursue our rights, or be protected against bad working conditions.”*

- Gulnihar Alam, Andolan

## ENDNOTES

- <sup>1</sup> Filipino farmworkers actually helped to form the United Farm Workers (UFW). In 1965, a group of Filipino farmworkers in California successfully went on strike in Coachella for increased wages. They repeated the same tactics in Delano, where they were joined by Mexican farmworkers led by Cesar Chavez. Afterwards, the Filipino and Mexican farm workers merged their unions to become the UFW. See United Farm Workers, "Veterans of historic Delano Grape Strike mark 40th anniversary with two-day reunion in Delano and La Paz," 17 September 2005. 31 March 2010 <[http://www.ufw.org/\\_page.php?menu=research&inc=history/05.html](http://www.ufw.org/_page.php?menu=research&inc=history/05.html)>.
- <sup>2</sup> Schmitt, J., Rho, H. J., & Woo, N. Unions and Upward Mobility for Asian Pacific American Workers. Washington, D.C.: Center for Economic and Policy Research, 2009.
- <sup>3</sup> According to the Census Bureau, Asian American voter turnout increased by 4 percentage points, increasing from 45 percent in 2004 to 49 percent in 2008. This is significant in that the overall turnout rate of the nation did not increase, while non-Hispanic white turnout actually decreased by 1 percentage point. Additionally, Census figures found that approximately 3.6 million Asian American voted in the 2008 elections, an increase of roughly 600,000 or 21 percent from the 2.9 million Asian Americans who voted in 2004. See APIA Vote, "APIA Vote Organizational Update," 18 September 2009. 12 April 2010 <<http://www.apivote.org/newsroom/press-releases/2009/apivote-organizational-update>>.
- <sup>4</sup> The "bamboo ceiling" is similar to the idea of a glass ceiling where women and minorities find that they are not promoted to management positions. A December 2005 Gallup poll found that 31 percent of Asian respondents said they had experienced discriminatory or unfair treatment on the job. But the EEOC noted in its report that enforcement actions reveal that Asian Americans and Pacific Islanders file only 3.26 percent of discrimination complaints in the federal workplace. See Equal Employment and Opportunity Commission, Asian American and Pacific Islander Work Group Report for the Chair of the Equal Employment Opportunity Commission, Washington, D.C.: Equal Employment and Opportunity Commission, 2009.
- <sup>5</sup> Bronfenbrenner, Kate. No Holds Barred: The Intensification of Employer Opposition to Organizing. Washington, D.C.: Economic Policy Institute, 2009.
- <sup>6</sup> Bronfenbrenner, 2009.
- <sup>7</sup> Allegretto, S. A., Bernstein, J., & Mishel, L. The State of Working America 2006-2007. Washington, D.C.: Economic Policy Institute, 2006.
- <sup>8</sup> A 2009 study conducted in the European Union finds that when workers have union representation, there is better observance of health and safety rules, lower accident rates and fewer work-related health problems. See Menéndez, M., Benach, J., & Vogel, L. The impact of safety representatives on occupational health. Brussels, Belgium: European Trade Union Institute, 2009.
- <sup>9</sup> Bronfenbrenner, 2009.
- <sup>10</sup> The National Labor Relations Board rulings on September 29, 2006 favored Oakwood Healthcare, Inc., Golden Crest Healthcare Center, and Croft Metals. In their dissent, NLRB members Wilma Liebman and Dennis Walsh said the decision "threatens to create a new class of workers under federal labor law—workers who have neither the genuine prerogatives of management, nor the statutory rights of ordinary employees." See Parks, James, "Labor Board Ruling May Bar Millions of Workers from Forming Unions," 3 October 2006. 12 April 2010 <<http://blog.aflcio.org/2006/10/03/labor-board-ruling-may-bar-millions-of-workers-from-forming-unions/>>.
- <sup>11</sup> Holland, Jesse. "Court to decide whether two-member NLRB can work ." 23 March 2010. Associated Press. 31 March 2010 <[http://hosted.ap.org/dynamic/stories/U/US\\_SUPREME\\_COURT\\_LABOR\\_BOARD?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT](http://hosted.ap.org/dynamic/stories/U/US_SUPREME_COURT_LABOR_BOARD?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT)>.
- <sup>12</sup> American Rights at Work. "Half A Million and Counting." 17 September 2008. 25 March 2010 <<http://www.americanrightsatwork.org/publications/general/half-a-million-and-counting-20080917-654-94-94.html>>.
- <sup>13</sup> Brudney, James J., "Neutrality Agreements and Card Check Recognition: Prospects for Changing Paradigms," Iowa Law Review, Vol. 90, 2005.
- <sup>14</sup> Ferguson, John-Paul. "The Eyes of the Needles: A Sequential Model of Union Organizing Drives, 1999-2004." MIT Institute for Work and Employment Research, 15 March 2008. 29 March 2010. < [http://www.peri.umass.edu/fileadmin/pdf/other\\_publication\\_types/efca\\_files/Ferguson.pdf](http://www.peri.umass.edu/fileadmin/pdf/other_publication_types/efca_files/Ferguson.pdf)>
- <sup>15</sup> The most prominent management-side law firm, Jackson Lewis, grossed \$256 million in revenue in 2009 alone. See Lowe, Zach, "THE AM LAW 100: Slower Revenue Growth, More Stratification at Jackson Lewis," 2 March 2010. American Law Daily. 31 March 2010
- <sup>16</sup> Thirty-seven percent of newly formed unions still had no first contract two years after an election. See Bronfenbrenner, 2009.
- <sup>17</sup> Johnson, Susan. "First Contract Arbitration: Effects on Bargaining and Work Stoppages." Labor and Employment Relations Association. Waterloo, Ontario: Wilfrid Laurier University, 2008.
- <sup>18</sup> Asian American Justice Center. "A Call to Action: ." 12 April 2010. AAJC Immigration Materials & Publications. 12 April 2010.
- <sup>19</sup> Passel, Jeffrey S., Cohn, D'Vera. Immigration to Play Lead Role In Future U.S. Growth: U.S. Population Projections: 2005-2050. Washington, D.C.: Pew Research Center, 2008.
- <sup>20</sup> For example, 26,000 Germans could immigrate annually while only 105 Chinese were allowed annually. See Facts on File, Inc., "Annual Immigration and Quota Laws (1890-1930)," The Emergence of Modern America (1890-1930) . Facts on File, Inc., n.d.
- <sup>21</sup> Lai, Wally Look. "'Chinese Indentured Labor: Migrations to the British West Indies in the Nineteenth Century.'" *Amerasia Journal* 15:2 (1989): 117-138.
- <sup>22</sup> This recourse also contains a fascinating discussion of how the courts have eroded various workplace laws including the NLR Act. Dannin, Ellen. "Hoffman Plastics as Labor Law – Equality at Last for Immigrant Workers?" Carlisle, PA: The Pennsylvania State University Dickinson School of Law, 2010.
- <sup>23</sup> International Brotherhood of Electrical Workers. San Francisco Contractor Facing 48 Felony Counts for Cheating Immigrants. October 2009. 30 March 2010 <<http://www.ibew.org/articles/09ElectricalWorker/EW1009/03.1009.html>>.
- <sup>24</sup> Bernhardt, Annettem, et. al. Broken Laws, Unprotected Workers: Violations of Employment and Labor Law in America's Cities. New York: National Employment Law Project, 2009.
- <sup>25</sup> An ICE official wrote a Signal manager that "the agency would pursue any Indian workers who left their jobs, 'if for no other reason than to send a message to the remaining workers that it is not in their best interests to try and 'push' the system.'" See Preston, Julia, "Suit Points to Guest Worker Program Flaws," *New York Times* 1 February 2010: 2. 20 March 2010. <<http://www.nytimes.com/2010/02/02/us/02immig.html>>
- <sup>26</sup> Phillips, Steve. "Indian Workers Accuses Signal International of 'Human Trafficking'." *WLOX*. 6 March 2008. 30 22 March 2010. <<http://www.wlox.com/Global/story.asp?S=7977223>>
- <sup>27</sup> Smith, Rebecca, et al. Undocumented Workers: Preserving Rights and Remedies after Hoffman Plastic Compounds v. NLRB. New York, NY: National Employment Law Project, 2002.
- <sup>28</sup> AFL-CIO. "Immigrant Workers at Risk: the Urgent Need for Improved Workplace Safety and Health Policies and Programs." Washington, D.C.: AFL-CIO, 2005.
- <sup>29</sup> Po, Vivian. "Asian Americans Mobilize for Immigration Reform." *Asianweek* 2009 August 2009: 1.
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- <sup>41</sup> Language access is pivotal to ensuring that communities with limited English proficiency are able to access services like health care and education. In 2000, President William J. Clinton signed Executive Order 13166 to ensure that federal agencies ensure meaningful language access. See Asian American Justice Center, "Language Access Publications & Materials." 26 April 2010. <http://www.advancingequality.org/LanguageAccessPublications/>

*In Memory of  
Tam Tran and John Delloro*

1982-2010



1971-2010



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Asian American Action Fund (AAAF)	National Asian Pacific American Women's Forum (NAPAWF)
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Asian Pacific American Legal Resource Center (APALRC)	National Federation of Filipino American Associations (NaFFAA)
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