

COMMENTARY
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The National Labor College in Silver Spring, Maryland, will soon become the site of a national tribute to workers killed on the job. During a Workers' Memorial Day ceremony this past April 28, Cecil Roberts, President of the United Mine Workers, remembered his fallen sisters and brothers by presenting the college with one of the first major checks for construction of a National Workers Memorial.

It was fitting that the Mine Workers are taking a leading roll in supporting the Workers Memorial. Both of President Roberts' grandfathers died in mining accidents. For Roberts and other mine workers, death is an unwelcome neighbor. In the United States alone, over two hundred thousand miners have lost their lives in accidents while trying to eek out an existence thousands of feet below earth's surface.

After presenting the check, Roberts asked the jugular question. Must workers continue to die because employers place the profit and lost statement above worker safety and human lives?

The answer, of course, is no.

In fact, Workers Memorial Day, a day unions and workers in the U.S. and around the globe take time to remember those who were killed or maimed on

the job, originated with the passage of the Occupational Health and Safety Act, which was passed on April 28, 1970. The law was supposed to protect workers from unsafe practices by employers. At first it did. Job fatalities dropped from 13,800 in 1970 to a low of 5,534 in 2002. But since then progress has come to a halt, with a slow but steady increase in deaths, reaching 5,840 in 2006.

So why is this happening?

One reason is lax enforcement of the law. Just look at the case of McWane, Inc., a leading producer of steel pipe in the U.S. During a ten year period starting in 1995, 11 workers were killed and thousands injured at sites around the country. McWane was cited in dozens of OSHA investigations but in every case penalties were reduced and citations dropped. It wasn't until the New York Times exposed McWane's conduct that criminal prosecutions forced the company to change its ways.

Maximum civil penalties are low. In fiscal 2007, for instance, the average federal OSHA fine was \$906 while the average state fine was \$913. Even when workers are killed, the fines to most corporations are in the nickel-and-dime range, averaging \$10,133 nationally. Apparently, many firms would rather pay the fine than protect a human life.

If civil penalties are low, criminal penalties are practically non-existent. Since the passage of the act 38 years ago, the government has prosecuted a mere 68 cases with defendants serving a total of 42 months in jail. During the same time, there were 341,000 workplace fatalities.

But the issue isn't only lax enforcement of the statute; it's also a function of gross understaffing of OSHA. According to testimony presented by the AFL-CIO's Peg Seminario, "OSHA has the capacity and resources to inspect workplaces on average once every 92 years – once every 133 years in the federal OSHA states."

I could go on presenting the data of death and mayhem on the job. But you get the point.

To reverse the trend and protect workers, Congress needs to act immediately to put teeth into OSHA law. Civil and criminal penalties need to be increased if the law is to serve as a deterrent. The agency also needs adequate resources to fulfill its mission.

On Workers' Memorial Day and every day, let us remember the words of Mother Jones: *Remember the dead and fight like hell for the living!*

FOOTNOTES

Testimony of Peg Seminario, Director Safety and Health, AFL-CIO Before the Senate Committee on Health, Education, Labor and Pensions, Hearing on Penalties for Worker Fatalities under the Occupational Safety and Health Act. April 29, 2008