Injured Workers’ Rights are Human Rights: A Human Rights Day Reflection on Workers’ Compensation

DECEMBER 10, 2013 - 1:02PM

Some three million people in the United States are struck with an occupational injury or illness every year, and across the country injured workers are similarly denied the healthcare, compensation, and transparent, accountable workers’ compensation system they need. From the original “bargain” of workers’ comp—the assurance of healthcare and wage replacement in return for forgoing the right to sue an employer—big business and the insurance industry have pushed “reforms” that have increasingly curtailed the human rights of injured and ill workers.

Over the last few decades, employers and insurers have bent the rules to require workers to prove the legitimacy of their workers’ comp claims while employers and insurers do all they can to refute them, going so far as to hire private investigators, withhold evidence, and pay off doctors. Legally prohibited from using health insurance to cover work-related injuries and illnesses and from suing their employers or pursuing any other remedies, workers are left with no option but to wait and hope their workers’ comp claim is approved. As they wait, people’s situation often gets worse: they are forced to delay medical care they can’t afford, forced to return to work and risk further injury, or forced to leave work and try to survive without their income. Delays and denials can pull whole families into poverty. Even one missed paycheck can be financially devastating.

Today is the 65th anniversary of the Universal Declaration of Human Rights, a milestone document that recognizes, among other rights, that every human being, simply by virtue of being human, has the right to work and live in dignity. We all have the right to work in a safe, healthy environment, to be able to support ourselves and our loved ones, and to a set of social protections necessary for our dignity and well-being. These rights are universal and inhere in all of us, but because they depend on many factors beyond our own control, our federal and state governments are obligated to take actions, including regulating workplaces and providing social insurance, to protect and fulfill our rights. When we are hurt on the job, we need both medical care and replacement wages so we can recover and recuperate. To deny us either is to deny our fundamental human rights, but our workers’ compensation system institutionalizes this denial.

The problems with workers’ compensation matter not just to injured workers, but to all of us. Just as we need decent and meaningful work that allows us to support ourselves and our loved ones, we need a set of social protections to support us when we fall on hard times and those in our communities who are unable to work. Today on Human Rights Day, we honor the millions of other injured and ill workers with a renewed call for a workers’ compensation system designed around eight human rights principles:

- **Human Dignity:** Injured or ill workers must be treated with dignity and respect.
- **Availability and Access to Quality and Timely Healthcare:** All injured or ill workers, regardless of status, classification or type of employment, must have access to patient-oriented,
quality and timely healthcare and treatment. The legal burden of determining the cause of the injury or illness should not result in the delay or denial of timely and quality healthcare.

- **Timely and Adequate Compensation:** All injured or ill workers, regardless of status, classification or type of employment, must receive timely and adequate compensation and benefits that – at the very least – meet their basic needs.

- **Protection from Retaliation and Discrimination:** Injured or ill workers must be afforded adequate protection against retaliation and discrimination by current and potential employers, insurers or any other actors within the workers’ compensation system.

- **A Fair and Participatory System:** Processes for providing benefits and care to injured or ill workers must be timely, transparent, fair and impartial, and oriented toward meeting the needs of injured or ill workers. Legal presumptions and rules of evidence should be designed around and weighted in favor of workers’ interests. Workers must have the right to participate in the workers’ compensation system, including representation on relevant boards and commissions.

- **Access to Information:** Injured or ill workers must have access to information from employers, insurance companies, government agencies and other authorities which is pertinent to their treatment and to receiving adequate compensation. All information regarding injured or ill workers must be obtained and utilized in a manner that protects the right to privacy of workers and of their families. The public must also have access to quality and accurate data on the illnesses and injuries workers experience and more generally about workers’ compensation systems.

- **Accountability:** There must be greater accountability demanded of workers’ compensation systems and insurers, including evaluation and better oversight of processes within the systems.

- **Access to Subsequent Employment:** Injured or ill workers physically and psychologically able to work should have access to appropriate subsequent employment.