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Edward Weisband, Christopher Colvin

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HUMAN RIGHTS QUARTERLY

An Empirical Analysis of International Confederation of Free Trade Unions (ICFTU) Annual Surveys

Edward Weisband & Christopher J. Colvin***

I. INTRODUCTION

In recent years, the subjects of freedom of association, trade unions, and labor rights have risen to fore of global attention. Voluntary corporate codes of conduct relating to sound labor practices—especially in the textiles, apparel, and garment industries—have proliferated to counter sweatshop practices all too prevalent throughout this sector.¹ Similarly, attempts to

* *Edward Weisband* is the Edward S. Diggs Endowed Chair Professor in the Social Sciences, Department of Political Science, Virginia Polytechnic Institute and State University. His research interests focus on normative systems, monitoring regimes, and international organization, specifically with reference to core international labor standards, and he has recently completed an empirical analysis of the ILO workers' rights supervisory system. He has served in a consultative capacity to the US Agency for International Development (USAID) regarding human rights and civic participation programs and to the International Labor Office (ILO) in matters pertaining to sectoral and related technical programs and issues. He has received numerous national and university teaching awards and commendations for research including the Virginia Tech Sporn Award for distinguished teaching of introductory subjects. In 1987, the Carnegie Foundation Council on the Advancement and Support of Education (CASE) selected Professor Weisband as a gold medal finalist in its national professor of the year competition and as the New York State Professor of the Year.

** *Christopher Colvin*, a doctoral candidate, Department of Anthropology, University of Virginia, writes on post-Apartheid South Africa and is currently completing a dissertation on the Truth and Reconciliation Commission. His research interests focus on the cultural dynamics of national healing and social reconciliation. He began working on issues relating to freedom of association while an undergraduate at Virginia Tech.

1. According to a survey conducted in 1995, corporations within the textile and apparel industry surveyed that claimed to have voluntarily adopted codes of conduct included the following: Dayton Hudson Corporation; Dillard Department Stores; The Dress Barn, Inc.; Family Dollar Stores; Federated Department Stores; Fruit of the Loom; The Gap;

attach social clauses to trade agreements have gained some momentum.² These clauses are designed to ensure that the market strategies of national producers and buyers do not sustain an international “race to the bottom” borne by local exploitation of workers and the imposition of substandard labor practices that violate their rights.

The International Labor Organization (ILO) defines workers’ rights in terms of core labor standards including freedom of association rights, as well as in terms of a series of normative proscriptions against forced labor, all forms of discrimination at the workplace, and child labor.³ Freedom of association rights, enshrined in ILO Conventions 87 and 98, establish the rights of workers to organize by forming free trade unions and to bargain collectively.⁴ These two ILO freedom of association Conventions are universally regarded as the foundation of all workers’ rights and are among the most ratified of all ILO Conventions.

The International Confederation of Free Trade Unions (ICFTU), headquartered in Brussels and representing the major “peak” association of free

Hartmax Corporation; JC Penney Company; Jones Apparel Group; Kellwood Company; Kmart Corporation; Land’s End, Inc.; Levi Strauss & Company; The Limited; Liz Claiborne; Mercantile Stores Company; Montgomery Ward Holding Company; Nike; Nordstrom; Oxford Industries; Phillips-Van Heusen; Price Costco; Ross Stores, Inc.; Russell Corporation; Salant Corporation; Sara Lee Corporation; Sears Roebuck & Company; Spiegel, Inc.; Stage Stores, Inc.; The Talbots, Inc.; Tultex Corporation; Venture Stores; VF Corporation; Wal-Mart Stores; Warnaco Group; and Woolworth Corporation. U.S. DEPARTMENT OF LABOR, BUREAU OF INTERNATIONAL LABOR AFFAIRS, *THE APPAREL INDUSTRY AND CODES OF CONDUCT: A SOLUTION OF THE INTERNATIONAL CHILD LABOR PROBLEM?* 22–41 (1996). In recent years, various governments have supported efforts to forge transnational as well as domestic coalitions among companies, trade unions, and non-governmental organizations (NGOs) in order to promote international adoption of codes of conduct; examples include the White House Apparel Industry Partnership (AIP) in the U.S., the Ethical Trading Initiative (ETI) in the United Kingdom, and the Fair Trade Charter on Clothing in the Netherlands.

2. For an outline of the global campaign to adopt a social clause linked to trade negotiations within the context of the World Trade Organization (WTO) as seen from the perspective of international trade unionism, see INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS, *FIGHTING FOR WORKERS’ HUMAN RIGHTS IN THE GLOBAL ECONOMY* (1997).
3. See Lee Swepston, *Human Rights Complaint Procedures of the International Labour Organization*, in *GUIDE TO INTERNATIONAL HUMAN RIGHTS PRACTICE* 99, 100–14 (Hurst Hannum ed., 2d ed. 1992). For a comprehensive overview of the ILO, international labor standards, and human rights, see HECTOR G. DE LA CRUZ ET AL., *THE INTERNATIONAL LABOR ORGANIZATION: THE INTERNATIONAL LABOR STANDARDS SYSTEM AND BASIC HUMAN RIGHTS* (1996). For a comparison between the ILO supervisory approach to human rights and the monitoring performed by other UN specialized agencies, see Virginia A. Leary, *Lessons from the Experience of the International Labour Organisation*, in *THE UNITED NATIONS AND HUMAN RIGHTS: A CRITICAL APPRAISAL* 580 (Philip Alston ed., 1992).
4. See Convention Concerning Freedom of Association and Protection of the Right to Organise (ILO No. 87), adopted 9 July 1948 (entered into force 4 July 1950), available on ILOLEX; Convention Concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (ILO No. 98), adopted 1 July 1949, (1949), (entered into force 18 July 1951), available on ILOLEX. As of 1998, Convention No. 87 had been ratified by 122 ILO member states and Convention No. 98 by 139 member states.

trade unions federations or national centers in the world, outlines freedom of association rights as follows:

all workers . . . must have the right to establish and . . . to join organisations of their own choosing without previous authorisation;

trade unions must be able, without any interference from the public authorities, to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes;

trade unions must not be liable to be dissolved or suspended by administrative action;

trade unions must be free to establish and join federations and confederations and any such organisation must have the right to affiliate to international trade union organisations;

workers must have adequate protection against acts of anti-union discrimination regarding their employment, and trade unions must be protected against any acts of interference by employers in their establishment, functioning or administration;

trade unions must be able to bargain collectively to regulate terms and conditions of employment and all other matters affecting the livelihood of the workers;

workers and their trade unions must be able to strike and to take other industrial action.⁵

In addition, the ICFTU links the practice of freedom of association rights with the ability to exercise and enjoy two sets of fundamental human rights.⁶ It describes these in terms of “guarantees,” first, “against arbitrary interference that is liable to impair the exercise of trade union rights,” and, secondly, as “[t]he positive freedom to engage in activities necessary for the effective exercise of trade union rights[.]”⁷ With respect to the first, the ICFTU defines guarantees against arbitrary interference as “the right to freedom and safety of the individual and freedom from arbitrary arrest, detention or exile, protection against inhuman treatment, the right to a fair trial by an independent and impartial tribunal, the non-retroactive nature of penal legislation, and protection of trade union property, including freedom from arbitrary invasions of privacy.”⁸ With respect to the second or positive freedom, the ICFTU includes “freedom of assembly, freedom of movement

5. INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS, ANNUAL SURVEY OF VIOLATIONS OF TRADE UNION RIGHTS 1983/84, ¶ 1.2 (1984). The first three ICFTU Annual Surveys covered two-year periods, e.g., 1983/1984, 1985/1985, 1985/1986; thereafter ICFTU Annual Surveys reviewed violations occurring during single yearly periods.

6. *Id.* ¶ 1.3.

7. *Id.*

8. *Id.*

and residence within the borders of each country, the right to leave any country, including one's own, and to return to one's country, and freedom of opinion and expression, in particular freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."⁹ Despite ostensibly wide acceptance of such freedom of association rights, they are subject to widespread violation and abuse.

Suppression of trade unions—of their activities and of their rank and file—represents a pandemic form and consistent pattern of human rights violations which regularly occur not only under authoritarian regimes but in democracies as well. As a consequence, the thirteenth ICFTU World Congress, meeting in Oslo in 1983, decided to publish an *Annual Survey of Violations of Trade Union Rights*.¹⁰ The introduction to the first volume states, "This survey describes in a concise manner concrete violations of trade unions rights that have taken place in the different regions over the last two years and gives a more detailed description of the situation in . . . selected cases."¹¹ The analysis below testifies to the range of behaviors and practices involved in infractions against trade union and workers' rights as recounted by *ICFTU Annual Surveys*.

The following factors represent a set of empirical findings, or "listings," reported in *ICFTU Annual Surveys*:¹² 1) how violations against freedom of association rights are perpetrated; 2) by what agents or agencies; 3) employing what kinds of instrumentalities; and 4) against which targets or victims. However, no systematic analysis of these listings exists and, as a consequence, overall regional patterns remain unspecified. This investigation reviews the 5775 listings that appeared in *ICFTU Annual Surveys* between 1983 and 1995 in order to identify the specific ways in which freedom of association violations occur and to suggest regional patterns to violations.

This account is hardly self-evident. Beginning in 1995, *ICFTU Annual Surveys* began to provide a broad interpretative framework for classifying the conceptual dimensions of freedom of association violations.¹³ However,

9. *Id.*

10. *See id.* ¶ 1.1 (for an outline of the history of the decision to publish the *ICFTU Annual Surveys*).

11. *Id.*

12. The 1995 *ICFTU Annual Survey* lists violations of "individuals' trade union rights" in terms of four categories: murders, injuries, arrests/detentions, and dismissals. In addition, it lists "violations of collective trade union rights" in two categories: government interference and legal barriers. *See* Bill Jordan, *Introduction* to INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS, ANNUAL SURVEY OF VIOLATIONS OF TRADE UNION RIGHTS 1995, at 1 (1995). The survey also provides regional averages for these six categories.

13. *See id.*

this framework was not applied beyond three-year periods nor was it applied in ways that are fully indicative of either the analytical categories implicit in the actual survey listings or of the precise data contained therein.¹⁴ Specific listings in ICFTU *Annual Surveys* are grouped by country and by region, but not according to the categories or types of violations, and not in a statistically aggregated way covering more than three survey years. This article is designed to formulate explicitly the conceptual categories which remain implicit in ICFTU *Annual Survey* listings by organizing them into a singular taxonomic scheme. In addition, this article illustrates a composite statistical portrait of the actual ICFTU listings for a thirteen-year period. Thus, this article's taxonomic framework, based on the units of analysis intrinsic to ICFTU listings and their frequency, generates macroscopic data concerning how freedom of association rights are globally violated and how these violations occur microscopically at regional and national levels.

The interpretative framework utilized in this article also serves to help remedy a lapse which currently exists in the human rights literature concerning workers' rights and trade union rights. The framework allows for the construction of a kind of "political geography" of freedom of association violations that connects specific categories and types of violation to particular locations. Such analytical clarity outlines the "who, where, when, and how" of workers' violations. In so doing, the analysis points toward the need to develop specific strategies for countering particular types of freedom of association violations. This, in turn, reveals the distinct but not as yet fully realized mutuality which exists between the struggle to defend and promote freedom of association rights, as pursued by trade unions such as the ICFTU, and the causes of human rights in general, as defined by many nongovernmental organizations (NGOs).

If freedom consists of having the right to participate in the development of practices that comprise one's social existence, freedom of association rights are in fact fundamentally constitutive of the very practices that occur where many persons live most of the time—that is, at the workplace or worksite. To address in a precise conceptual and empirical way the question of how freedom of association rights are violated is to confront how the voices and interests of workers do or do not become freely articulated and collectively organized and institutionalized. Thus, the ultimate significance of this analysis transcends even taxonomic considerations. For in seeking to demonstrate that freedom of association rights are situated at the core of human rights, this article underscores the importance of advocacy strategies that properly "privilege" the normative language of workers' rights, labor

14. See *id.*

rights, and trade union rights—a concept that the human rights community as a whole has not always succeeded in recognizing.

II. METHODOLOGICAL PROCEDURES

ICFTU Annual Survey listings lend themselves to dual forms of analysis: conceptual and empirical. In order to develop the analysis below, it was necessary to delineate the conceptual dimensions that the ICFTU Survey listings reveal and to examine the frequency of ICFTU Survey listings. In all, three major categories of violations and twenty-two types of violations within these three categories evolved from the application of these procedures. The dual nature of the methodological procedures applied here is also illustrated by the use of a “bottom-up” inductive approach as well as a “top-down” deductive approach. Applying a bottom-up approach to *ICFTU Annual Survey* listings, we examined the violations in order to abstract their dimensions. In so doing, we discovered three such “dimensions of violations”: (1) who is the *target* of the violation; (2) who is the *perpetrator* of the violation; and (3) what is the particular *instrumentality* of the violation.

In our analysis, the term “perpetrator” refers either to a government agency or agencies as well as to persons who, for analytical purposes, appear in ICFTU listings to be acting in a private capacity. The term “targets,” moreover, refers to persons who are officials or members of trade unions, or, alternatively, workers engaged in collective action but under conditions in which a trade union is prohibited or otherwise absent. For analytical purposes, “targets” of violations in ICFTU listings also include trade union offices or property. The term “instrumentality” refers to the specific means and methods used by perpetrators to interfere with freedom of association rights.

On the basis of this schema, we identified the three major *categories of violation* and the twenty-two specific *types of violation*. These three dimensions, therefore, represent the constitutive units of analysis for organizing our analytic framework. Each of twenty-two types of violation represents a unique configuration extracted on the basis of these three dimensions. It is the variation in the relationships among these three dimensions that allows us to define the three major categories and twenty-two specific types of violations.

The three major violation categories include: *violent interference*, *legislative interference*, and *infringement*. The twenty-two specific types of violations are grounded in these three major violation categories.

These twenty-two types of violations permit an extensive empirical examination of the frequency and location of specific listings contained in *ICFTU Annual Surveys*. Having derived a comprehensive conceptual

framework on the basis of the three dimensions of violations that are consistently mentioned within the ICFTU listings, we proceeded to apply the twenty-two different types of violations to the ICFTU listings, enabling us to construct a record of both the frequency and the location of violations. This empirical analysis represents the “top-down” phase of our methodological procedures.

The figure below outlines the twenty-two types of violations—divided according to the three major categories of violations—intrinsic to ICFTU Survey listings.

FIGURE 1
Twenty-Two Types of Freedom of Association Violations

A) Violent Interference

- Type 1: Murder of Groups of Persons Engaged in Trade Union Collective Actions by Government-Sponsored Agents.
- Type 2: Murder of Groups of Persons Engaged in Trade Union Collective Actions by Nonpublic Employer Agents.
- Type 3: Physical Injury or Abuse of Groups of Persons Engaged in Trade Union Collective Actions by Government-Sponsored Agents.
- Type 4: Physical Injury or Abuse of Groups of Persons Engaged in Trade Union Collective Actions by Nonpublic Employer Agents.
- Type 5: Assassination of Trade Union Official(s) by Government-Sponsored Agents.
- Type 6: Assassination of Trade Union Official(s) by Nonpublic Employer-Sponsored Agents.
- Type 7: Murder of Trade Union Member(s) by Government-Sponsored Agents.
- Type 8: Murder of Trade Union Member(s) by Nonpublic Employer-Sponsored Agents.
- Type 9: Torture, Injury, or Inhumane or Degrading Treatment of Trade Union Member(s) by Government-Sponsored Agents.
- Type 10: Torture, Injury, or Inhumane or Degrading Treatment of Trade Union Member(s) by Nonpublic Employer-Sponsored Agents.

B) Legislative Interference

- Type 11: Laws Restricting Freedom of Association and/or Fundamental Freedoms for All Workers.
- Type 12: Laws Restricting Freedom of Association and/or Fundamental Freedoms for Public Sector Workers.
- Type 13: Failure to Enforce Laws Protecting Freedom of Association and/or Fundamental Freedoms for all Workers.
- Type 14: Failure to Enforce Laws Protecting Freedom of Association and/or Fundamental Freedoms for Public Sector Workers.
- Type 15: Failure to Enact Laws Protecting Freedom of Association and/or Fundamental Freedoms for All Workers.
- Type 16: Failure to Enact Laws Protecting Freedom of Association and/or Fundamental Freedoms for Public Sector Workers.

C) Infringement

- Type 17: General Decrees or Executive Orders, Including States of Emergency, Restricting Freedom of Association or Fundamental Freedoms.
- Type 18: Dysfunctional Intrusion of Specific Trade Union Activities and Members, Including Suspension, Banning, Dismissal, Replacement or Intimidation by Threats.
- Type 19: Violation of Due Process, Including Arrest, Detention, Unduly Long Trials or Sentences, and/or Deprivation of Freedom of Movement, Including Internal Exile, Compulsory Emigration, and Confiscation of Passports.
- Type 20: Violations of Freedom of Movement, Including Kidnaping and Hostage Taking, Committed by Nonpublic Employer-Sponsored Agents.
- Type 21: Violation or Destruction of Trade Union Offices or Property—Including Vandalism, Ransacking, Occupation, and Theft—by Government-Sponsored Agents.
- Type 22: Violation or Destruction of Trade Union Offices or Property—Including Vandalism, Ransacking, Occupation and Theft—by Nonpublic Employer-Sponsored Agents.
-

III. ANALYTICAL FRAMEWORK

Violations of freedom of association rights are sometimes treated as a whole without appropriate attention to the complete range of violations. The framework below demonstrates that ICFTU listings actually distinguish twenty-two types of violations under three major categories. The analytical framework outlined below proceeds from ICFTU listings to an identification of the three dimensions. The specific configuration among these dimensions in the course of any act or incidence of violation establishes what type of violation is occurring. Our investigation of ICFTU listings suggests that twenty-two different configurations exist. If all of the dimensions in any listing are identical to any other instance of violation, therefore, the listings are clustered under a single rubric or type of violation. A type of violation thus represents a particular or unique configuration of the three dimensions of violations.

Although there are twenty-two discrete configurations in which these three dimensions coexist, certain common features across these twenty-two configurations cluster around three major categories of violations. In other words, as demonstrated below, these variations among the configurations assume three major patterns; these patterns constitute the three major categories of violation. For example, *violent interference*, characterized by the presence of violent assault or restriction in any ICFTU Survey listing, represents one category of violation. A second category of violation is denoted as *legislative interference*. This category requires the presence—in any ICFTU Survey listing—of constitutional, statutory, or judicial acts of

interference in free trade unionism and the use of legislation to restrict freedom of association rights. This category also includes those failures on the part of executive agents or agencies to enforce existing legislation that protects freedom of association rights. A third category of violation, defined as *infringement*, is grounded in the use of nonlegislative instruments or means to curtail or restrict freedom of association rights through methods short of bodily harm. Violations involving infringement are perpetrated by both governments and by nonpublic employer-sponsored agents. All twenty-two types of violations fall under these three major categories of violations derived from ICFTU Survey listings. Together this consolidated taxonomic scheme indicates the full range of instrumentalities deployed and perpetrators employed to restrict full exercise of freedom of association rights. This article next outlines the twenty-two types of violation within the three major categories.

IV. THREE MAJOR CATEGORIES OF VIOLATIONS

A. Violent Interference

One major category of violation features the presence of violent interference, characterized by violent assault or restriction, intruding upon freedom of association rights. The specific set of questions raised when looking at violent interference, as a category of violation, are as follows. (1) Who is the target? That is, is the violent interference directed at specific person(s) or is it aimed at groups of persons engaged in trade union collective action and/or strikes? (2) Who is the perpetrator? That is, was the violent interference committed by government-sponsored agents or by nonpublic employer-sponsored agents? (3) What is the instrumentality of violent interference? That is, did the violent interference involve murder, assassination, injury, or torture?

The answers to these questions, and the configurations among the dimensional elements that result, cohere into ten specific violation types within this single violation category of violent interference. To illustrate our analysis we divide the major violation category of violent interference into two subcategories: those violations aimed at groups of persons engaged in trade union collective action or strikes and those targeted at specific person(s)—particularly trade union officials and members or workers. First, we consider those violations aimed at groups engaged in collective actions.

Table 1 outlines four violation types that refer to violent interferences aimed at persons engaged in trade union collective actions. These four types of violations are functions of two distinctions: the first revolves around the

TABLE 1
Four Types of Violent (V) Interference Targeted at Groups Engaged in Collective Actions

<i>Violation Type</i>	<i>Target</i>	<i>Perpetrator</i>	<i>Instrumentality</i>
Type 1	Collective groups of workers ¹⁵	Government-Sponsored	Murder
Type 2	Collective groups of workers	Employer-Sponsored	Murder
Type 3	Collective groups of workers	Government-Sponsored	Physical Injury or Abuse
Type 4	Collective groups of workers	Employer-Sponsored	Physical Injury or Abuse

difference between public and private agents as perpetrators; the second focuses on the difference between murder and physical injury (or abuse) as instrumentalities of violation.

Another cluster of violations is composed of violent interferences targeted at specific persons. Table 2 outlines six types of violations within this category. Differences among the types in this table reflect distinctions arising from the three instrumentalities—assassination, murder, and torture. They also reflect the difference between government and nonpublic, employer-sponsored agents as perpetrators. The final distinction is whether the target is a union official(s) or member(s).

TABLE 2
Six Types of Violent (V) Interference Targeted at Specific Persons

<i>Violation Type</i>	<i>Target</i>	<i>Perpetrator</i>	<i>Instrumentality</i>
Type 5	Trade union official(s)	Government-Sponsored	Assassination
Type 6	Trade union official(s)	Employer-Sponsored	Assassination
Type 7	Union member(s)	Government-Sponsored	Murder
Type 8	Union member(s)	Employer-Sponsored	Murder
Type 9	Union member(s)	Government-Sponsored	Torture, injury, or inhumane or degrading treatment
Type 10	Union member(s)	Employer-Sponsored	Torture, injury, or inhumane or degrading treatment

15. These workers may also include trade union officials or members.

B. Legislative Interference

The second category of violation is defined as legislative interference and requires the use of legislation as a means to limit the exercise of freedom of association rights. Over and beyond the use of legislation within this category of violation are a number of additional elements or features that distinguish the six types of violations that fall within it. Such elements point to questions concerning target(s), perpetrator(s), and the instrumentalities of legislative interference. The specific set of questions raised when looking at legislative interference as a category of violation are: (1) who is the target? That is, does the legislative interference target all workers in general or public sector workers only? (2) Who is the perpetrator? In other words, is the legislative interference a violation committed by the legislative or executive branches? and (3) What is the instrumentality of the legislative interference? That is, is the violation comprised of an enactment of restrictive legislation, a failure to enforce existing protective legislation, or a failure to enact protective legislation?

These questions and the relationships among the dimensions that they imply lead to six specific violation types within this major violation category of legislative interference. To illustrate our analysis we divide the major violation category of legislative interference into three subcategories comprised of two types of violations each: those violations that are an enactment of restrictive legislation, those that are a failure to enforce existing protective legislation, and those that represent a failure to enact protective legislation.

These violations refer to the enactment of constitutional or statutory laws that restrict freedom of association rights or other related fundamental freedoms. Both violations are, by their nature, the province of the legislature. In some cases, these legislative interference violations affect all workers; in other cases, they affect specific groups of public sector workers.

These violations illustrate how legislative interference may sometimes be perpetrated by acts of omission on the part of the executive branch. In

TABLE 3
Two Types of Legislative (L) Interference to Restrict Freedom of Association Rights

<i>Violation Type</i>	<i>Target</i>	<i>Perpetrator</i>	<i>Instrumentality</i>
Type 11	All workers	Legislature	Laws restricting freedom of association and/or fundamental freedoms
Type 12	Public sector workers	Legislature	Laws restricting freedom of association and/or fundamental freedoms

TABLE 4
Two Types of Legislative (L) Interference Based on Executive Failure to Enforce Legislative Protections

<i>Violation Type</i>	<i>Target</i>	<i>Perpetrator</i>	<i>Instrumentality</i>
Type 13	All workers	Executive	Failure to enforce laws protecting freedom of association or fundamental freedoms
Type 14	Public sector workers	Executive	Failure to enforce laws protecting freedom of association or fundamental freedoms

such instances legislative interference results from the presumed or demonstrable unwillingness of executive agencies to enforce protective legislation and statutes. These types of violations conceptually derive from the fact that the instrumentality of the violation remains legislative and follow from failures to implement legislative protections. As in the case of other types of legislative interference, targets are either all workers or specific groups of public sector workers.

These violations involve legislative or parliamentary failure to enact constitutional or statutory laws to protect freedom of association rights or other related fundamental freedoms. Again, targets are either all workers or specific groups of public sector workers.

C. Infringement

The third category of violation, infringement, involves placing trade unions and their members under duress as a means of restricting freedom of association rights. The instrumentalities of infringement are non-legislative actions that curtail the exercise of freedom of association rights by various means short of bodily harm. Infringement includes harassment manifested as patterns of persistent intrusion designed to influence the present behavior of workers through threats of future punishment. Infringement includes harassment and other instrumentalities, as listed below, and thus represents a relatively broader concept. Over and beyond the focus on infringement within this category of violation are a number of additional features pointing to different configurations among target(s), perpetrator(s), and instrumentalities. The specific set of questions, for example, raised when examining infringement as a category of violation are: (1) Who is the target? That is,

TABLE 5
Two Types of Legislative (L) Interference Based on a Failure to Enact Legislative Protections

<i>Violation Type</i>	<i>Target</i>	<i>Perpetrator</i>	<i>Instrumentality</i>
Type 15	All workers	Legislature	Failure to enact laws protecting freedom of association or fundamental freedoms
Type 16	Public sector workers	Legislature	Failure to enact laws protecting freedom of association or fundamental freedoms

does the infringement target all national or subnational trade unions and their local affiliates or specific trade unions and their members? (2) Who is the perpetrator? That is, is the infringement committed by a government-sponsored agent(s) or nonpublic, employer-sponsored agent(s)? (3) What is the instrumentality of the violation? In other words, is the infringement aimed at: (i) disrupting the administration of union business; (ii) preventing individual members from participating in trade union activities; or (iii) destroying or ransacking trade union offices or property?

These questions and the configurations among the dimensions that they imply cohere around six specific violation types within this major violation category of infringement. To illustrate our analysis, we divide the major violation category of infringement into two subcategories comprised of three types of violations each: those violations perpetrated exclusively by government-sponsored agents and those violations perpetrated by both government and nonpublic, employer-sponsored agent(s).

The types of violations presented above are characteristic of the instrumentalities available to particular kinds of agents. For example, only government agents have available to them such means as executive orders, bannings, dismissals, arrest, and exile, whereas both government and nonpublic, employer-sponsored agents may employ kidnappings, hostage taking, or the destruction and ransacking of property as instrumentalities of infringement.

In examining the different types of infringement violations, key differences result from various relationships between perpetrators and instrumentalities; that is, different perpetrators have access to different kinds of instrumentalities for purposes of infringement. For example, governments may issue general decrees or executive orders, whereas nonpublic employers may not. Important distinctions also arise as a consequence of the way

TABLE 6
Three Types of Infringement (I) Perpetrated Exclusively by
Government Agencies and Agents

<i>Violation Type</i>	<i>Target</i>	<i>Perpetrator</i>	<i>Instrumentality</i>
Type 17	All trade union activities and members	Government-Sponsored	General decrees or executive orders, including states of emergency, restricting freedom of association or fundamental freedoms
Type 18	Specific trade union activities or members	Government-Sponsored	Dysfunctional intrusion, including suspension, banning, dismissal, replacement or intimidation by threats
Type 19	Specific trade union activities or members	Government-Sponsored	Violation of due process (including arrest, detention, unduly long trials or sentences) and/or freedom of movement (including internal exile, compulsory emigration, and confiscation of passports)

in which similar acts of infringement are defined. For example, nonpublic employers and their agents may engage in actions characterized as hostage-taking or kidnaping, whereas government-sponsored agents undertaking to perform similar actions or activities are said to engage in what is typically defined as illegal detention.

In Table 6, the first violation type refers to violations resulting from general decrees and executive orders issued by governments that affect all national and subnational trade unions and their local affiliates. The second and third types of violations refer to actions aimed at specific unions and their members. In particular, the second type of violation above is comprised of forms of "dysfunctional intrusion." This includes the suspension or banning of specific unions, the dismissal or replacement of union officials by government agencies or the intimidation of union members. The third type stems from due process violations including arrest, detention, unduly long trials or sentences, and freedom of movement violations such as internal exile and compulsory emigration as well as confiscation of passports. All of these violations infringe on the ability of union members to participate freely in trade union activities.

This table indicates that certain kinds of instrumentalities are available both to governments and to nonpublic employer-sponsored agents. The first type of violation is similar to government-sponsored violations of due

TABLE 7
Three Types of Infringement (I) Perpetrated by Government and Non-Public, Employer-Sponsored Agents

<i>Violation Type</i>	<i>Target</i>	<i>Perpetrator</i>	<i>Instrumentality</i>
Type 20	Specific trade union activities or members	Employer-Sponsored	Violation of freedom of movement (including kidnapping, hostage-taking)
Type 21	Specific trade union activities or members	Government-Sponsored	Violation or destruction of trade union offices or property, including vandalism, ransacking, occupation, and theft
Type 22	Specific trade union activities or members	Employer-Sponsored	Violation or destruction of trade union offices or property, including vandalism, ransacking, occupation, and theft

process and of freedom of movement, a type of violation that appears in Table 6, in that it employs a particular instrumentality of infringement—restriction of movement. However, in instances when nonpublic, employer-sponsored agents employ this form of infringement, such actions, as already mentioned, are defined as hostage-taking or kidnapping rather than illegal detention or internal exile. The two additional types of violations in Table 7 involve the violation or destruction of trade union offices or property. The first points to acts involving the destruction of property on the part of government agencies and agents; the second covers the same acts when committed by nonpublic, employer-sponsored agents.

V. GLOBAL AND REGIONAL FREQUENCIES OF ICFTU LISTINGS BY VIOLATION CATEGORY AND TYPE

Application of the analytical framework yields a series of empirical observations concerning global and regional frequencies of violation categories and types. What follows illustrates the relationship between such frequencies at global and regional levels in a way designed to emphasize the most salient patterns that emerge from the data provided in ICFTU Surveys. The findings, based on ICFTU Survey listings, are represented graphically at global, inter-regional and intra-regional levels.

CHART 1
Absolute Numbers and Percentages of ICFTU SURVEY Listings, by Region

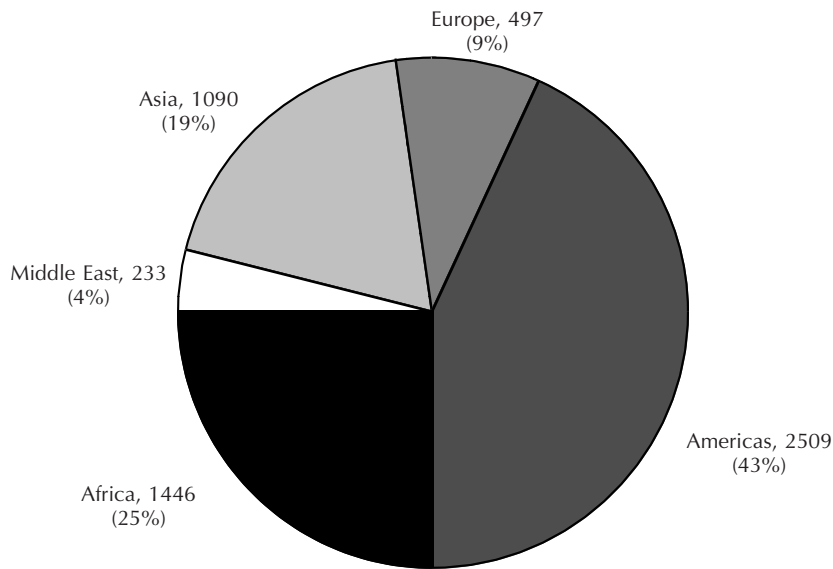


CHART 2
Absolute Numbers and Percentages of ICFTU SURVEY Listings, by Major Violation Categories

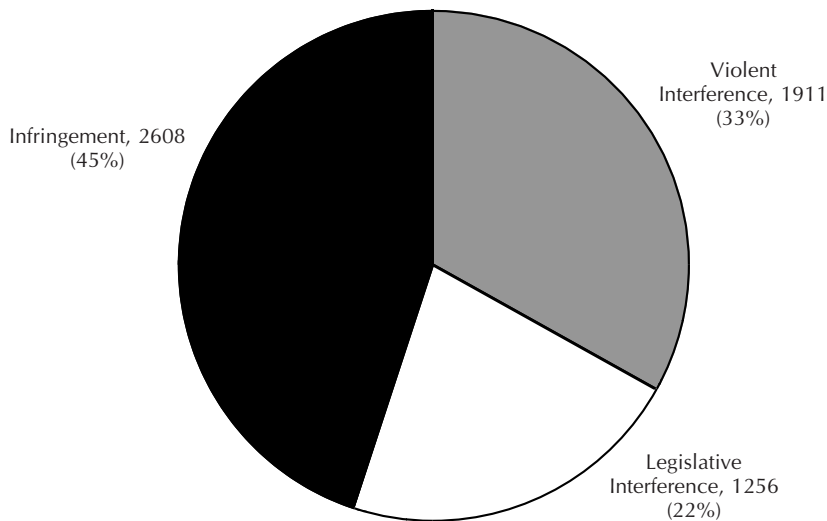
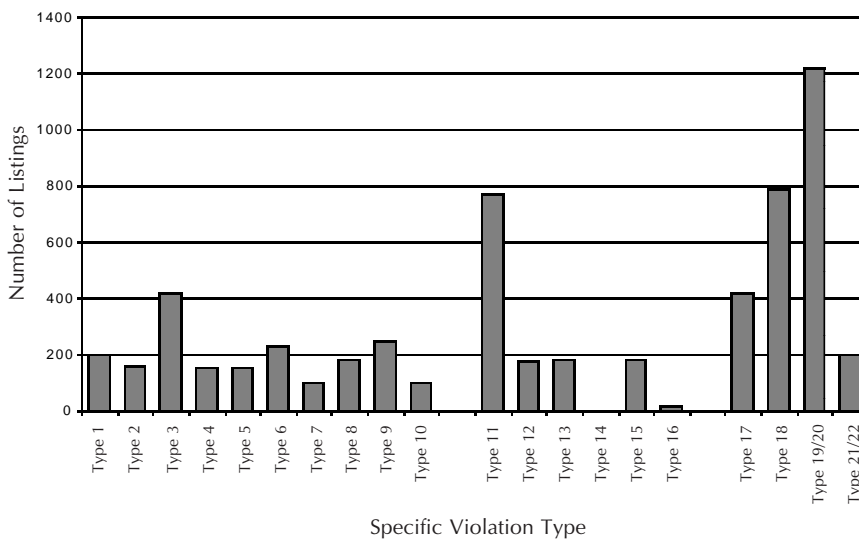


CHART 3
Global Violation Pattern, by Specific Violation Type



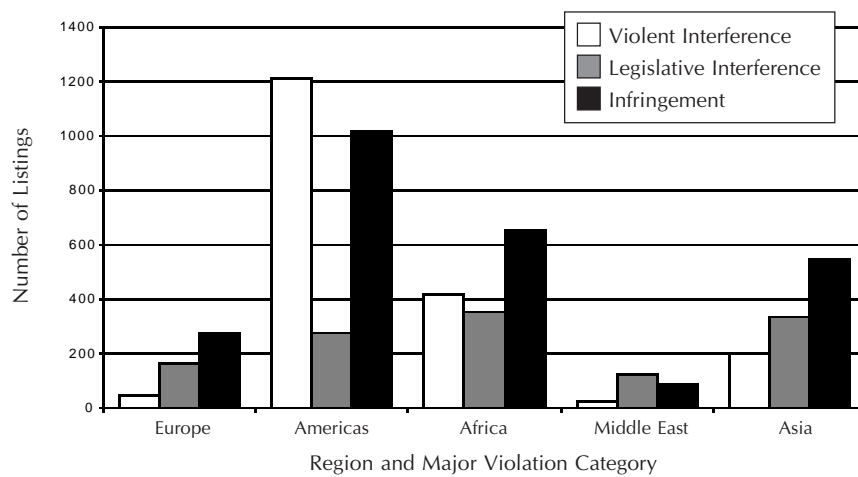
A. Global Violation Charts

The global violation chart above represents ICFTU Survey listings for the thirteen-year period under review, in both absolute figures and in percentages, according to regional frequencies. The predominant position of the Americas in ICFTU listings with regard to all types of violations is immediately apparent. The combined percentages for Asia and Africa equal approximately the percentage for the Americas. The small percentage of listings attached to the European and Middle Eastern regions suggest that perhaps violations in these areas occur less frequently. In all probability, however, these percentages indicate that the ICFTU mechanisms for monitoring violations is less effective in the Middle East.

The second global violation chart represents ICFTU Survey listings for the thirteen-year period under review, in both absolute figures and percentages, according to major violation categories. Specifically, this chart demonstrates that infringement is the most frequently listed category used to restrict the exercise of freedom of association rights. Violent interference represents more than half of the remaining 3167 listings.

The third global violation chart represents ICFTU Survey listings for the thirteen-year period under review, in absolute figures, according to the

CHART 4
Absolute Numbers of ICFTU SURVEY Listings, by Region and
by Major Violation Categories

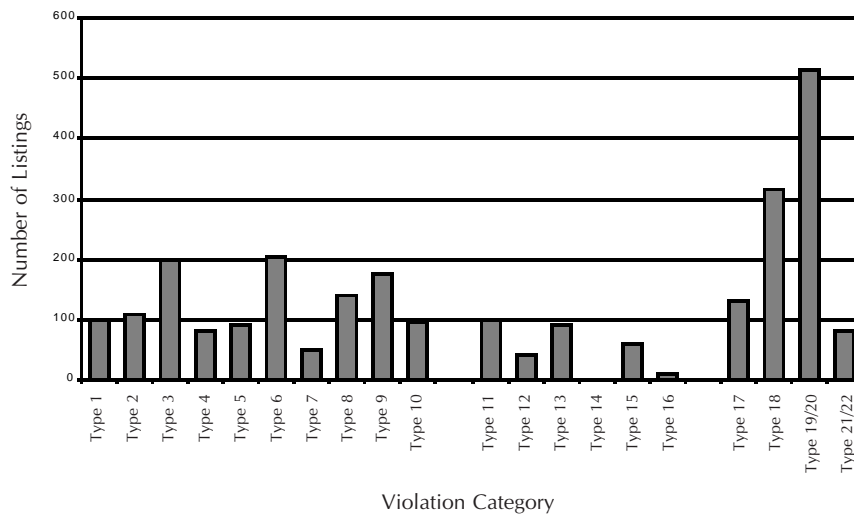


major violation categories. This global violation chart underscores the salience of certain types of violations within the major violation categories. Although our framework of analysis includes three major categories and twenty-two types of violations, certain types of violation are overwhelmingly more likely to be listed by the ICFTU in its attempt to monitor global restrictions imposed on freedom of association rights. Our empirical findings indicate, for example, that infringement in the form of violation of due process or freedom of movement, or violation type no. 19/20, tends to be the most frequently listed type. Within the major violation category of legislative interference, the empirical evidence indicates that the enactment of restrictive legislation that affects all workers, or violation type no. 11, is the most frequently listed type of violation. In terms of our taxonomic classification, violation type no. 19/20, violation type no. 18, and violation type no. 11 represent the three most frequent of all ICFTU listings.

B. Inter/Intra-Regional Charts

Chart 4 highlights inter/intra-regional comparisons in terms of the major violation categories. In so doing, it reveals the inordinate extent to which ICFTU listings refer to violent interference in the Americas. Furthermore, it

CHART 5
Violation Pattern for the Americas, by Specific Violation Type



graphically portrays the fact that among the regions identified in ICFTU Surveys, the Americas is the only one to have violent interference listed as the predominant category of freedom of association violation. The chart also suggests that infringement represents the predominant category of freedom of association violation in Europe, Africa, and Asia.

Given the salience of the Americas with respect to both the global absolute number of ICFTU listings and the use of violent interference as a category of violations, chart 5 illustrates the specific types of violation for the Americas alone. Consistent with the global violation patterns identified in chart 3, violation type no. 19/20 and type no. 18 remain the most salient types of violation in the Americas. Within the major category of violent interference, the data clearly demonstrate the following: first, physical injury and abuse of workers by government agencies or agents—violation type no. 3—is the most salient; second, the assassination of union officials by nonpublic, employer-sponsored agents—violation type no. 6—follows closely behind; and, third, torture and inhumane or degrading treatment of workers by government agencies or agents—violation type no. 9—represent the next most frequent type of violent interference.

VI. CONCLUSION

The results of our empirical analysis of *ICFTU Annual Surveys* point toward the prevalence of particular regional and national practices that interfere with the full enjoyment of freedom of association rights. Specification of how labor and trade union rights are violated suggests the importance of developing precise strategies to counter particular types of violations. ICFTU Survey listings thus represent a valuable resource in the struggle to achieve freedom of association rights across regions and within particular national settings. Our framework of analysis demonstrates how far the human rights community and free trade union movement must go in attempting to secure such rights. However, this framework also confirms the value and usefulness of those particularized monitoring mechanisms which permit a precise elucidation not only of the rights themselves but of how and in what ways such rights are violated.