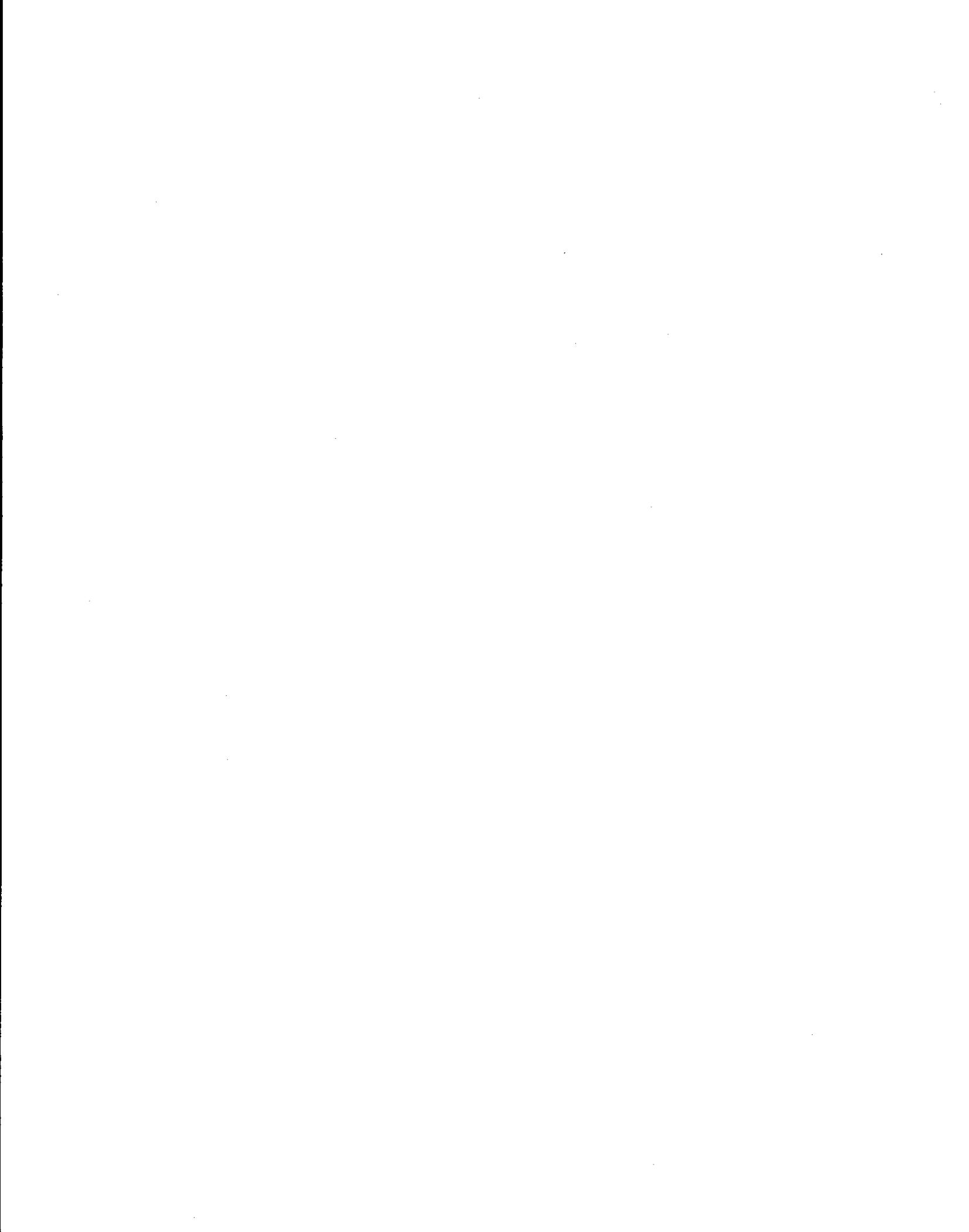


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EVERYDAY LOW WAGES:

THE HIDDEN PRICE WE ALL PAY FOR WAL-MART

**A REPORT BY THE DEMOCRATIC STAFF OF THE
COMMITTEE ON EDUCATION AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
REPRESENTATIVE GEORGE MILLER (D-CA), SENIOR DEMOCRAT**

FEBRUARY 16, 2004

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INTRODUCTION

The retail giant Wal-Mart has become the nation's largest private sector employer with an estimated 1.2 million employees.¹ The company's annual revenues now amount to 2 percent of the U.S. Gross Domestic Product.² Wal-Mart's success is attributed to its ability to charge low prices in mega-stores offering everything from toys and furniture to groceries. While charging low prices obviously has some consumer benefits, mounting evidence from across the country indicates that these benefits come at a steep price for American workers, U.S. labor laws, and community living standards.

Wal-Mart is undercutting labor standards at home and abroad, while those federal officials charged with protecting labor standards have been largely indifferent. Public outcry against Wal-Mart's labor practices has been answered by the company with a cosmetic response. Wal-Mart has attempted to offset its labor record with advertising campaigns utilizing employees (who are euphemistically called "associates") to attest to Wal-Mart's employment benefits and support of local communities. Nevertheless – whether the issue is basic organizing rights of workers, or wages, or health benefits, or working conditions, or trade policy – Wal-Mart has come to represent the lowest common denominator in the treatment of working people.

This report reviews Wal-Mart's labor practices across the country and around the world and provides an overview of how working Americans and their allies in Congress are seeking to address the gamut of issues raised by this new standard-bearer of American retail.

WAL-MART'S LABOR PRACTICES

WORKERS' ORGANIZING RIGHTS

The United States recognizes workers' right to organize unions. Government employers generally may not interfere with public sector employees' freedom of association. In the private sector, workers' right to organize is protected by the National Labor Relations Act.³ Internationally, this right is recognized as a core labor standard and a basic human right.⁴

Wal-Mart's record on the right to organize recently achieved international notoriety. On January 14, 2004, the International Confederation of Free Trade Unions (ICFTU), an organization representing 151 million workers in 233 affiliated unions around the world, issued a report on U.S. labor standards.⁵ Wal-Mart's rampant violations of workers' rights figured prominently. In the last few years, well over 100 unfair labor practice charges have been lodged against Wal-Mart throughout the country, with 43 charges filed in 2002 alone. Since 1995, the U.S. government has been forced to issue at least 60 complaints against Wal-Mart at the National Labor Relations Board.⁶ Wal-Mart's labor law violations range from illegally firing workers who attempt to organize a union to unlawful surveillance, threats, and intimidation of employees who dare to speak out.

With not a single Wal-Mart store in the United States represented by a union, the company takes a pro-active role in maintaining its union-free status. Wal-Mart has issued "A Manager's Toolbox to Remaining Union Free," which provides managers with lists of warning signs that workers might be organizing, including "frequent meetings at associates' homes" and "associates who are never seen together start talking or associating with each other."⁷ The "Toolbox" gives managers a hotline to call so that company specialists can respond rapidly and head off any attempt by employees to organize.

When employees have managed to obtain a union election and vote for a union, Wal-Mart has taken sweeping action in response. In 2000, when a small meatcutting department successfully organized a union at a Wal-Mart store in Texas, Wal-Mart responded a week later by announcing the phase-out of its meatcutting departments entirely. Because of deficient labor laws, it took the meatcutters in Texas three years to win their jobs back with an order that Wal-Mart bargain with their union.⁸ Rather than comply, Wal-Mart is appealing this decision.⁹

Wal-Mart's aggressive anti-union activity, along with the nation's weak labor laws, have kept the largest private sector employer in the U.S. union-free. Breaking the law that guarantees workers' right to organize has material consequences for both the workers and the company. According to data released by the Bureau of Labor Statistics in January 2004, union workers earn median weekly salaries of \$760, compared to non-union workers' median weekly salaries of \$599 – a difference of over 26 percent.¹⁰ In the supermarket industry, the union difference is even more pronounced, with union members making 30 percent more than non-union workers. Union representation also correlates with higher benefits.¹¹ For instance, 72 percent of union workers have guaranteed pensions with defined benefits, while only 15 percent of non-union workers enjoy such retirement security.¹² On the health care front, which will be explored in more detail later, 60 percent of union workers have medical care benefits on the job, compared to only 44 percent of non-union workers.¹³ For companies like Wal-Mart seeking to maintain low labor costs, these statistics obviously provide an incentive to remain union-free. Unfortunately, U.S. labor laws fail to provide a sufficient disincentive against violating workers' rights.

LOW WAGES

By keeping unions at bay, Wal-Mart keeps its wages low – even by general industry standards. The average supermarket employee makes \$10.35 per hour.¹⁴ Sales clerks at Wal-Mart, on the other hand, made only \$8.23 per hour on average, or \$13,861 per year, in 2001.¹⁵ Some estimate that average "associate" salaries range from \$7.50 to \$8.50 per hour.¹⁶ With an average on-the-clock workweek of 32 hours, many workers take home less than \$1,000 per month.¹⁷ Even the higher estimate of a \$13,861 annual salary fell below the 2001 federal poverty line of \$14,630 for a family of three.¹⁸ About one-third of Wal-Mart's employees are part-time, restricting their access to benefits.¹⁹ These low wages, to say the least, complicate employees' ability to obtain essential benefits, such as health care coverage, which will be explored in a later section.

The low pay stands in stark contrast to Wal-Mart's slogan, "Our people make the difference." Now-retired Senior Vice President Don Soderquist has explained: "Our people

make the difference' is not a meaningless slogan – it's a reality at Wal-Mart. We are a group of dedicated, hardworking, ordinary people who have teamed together to accomplish extraordinary things."²⁰ With 2002 company profits hitting \$6.6 billion, Wal-Mart employees do indeed "accomplish extraordinary things."²¹ But at poverty level wages, these workers are not sharing in the company's success.

UNEQUAL PAY AND TREATMENT

Title VII of the Civil Rights Act prohibits discrimination in employment based on employees' race, color, religion, sex, or national origin.²² Additionally, the Equal Pay Act, an amendment to the Fair Labor Standards Act, prohibits unequal pay for equal work on the basis of sex.²³ These basic labor and civil rights laws have become an issue at Wal-Mart.

In 2001, six women sued Wal-Mart in California claiming the company discriminated against women by systematically denying them promotions and paying them less than men. The lawsuit has expanded to potentially the largest class action in U.S. history – on behalf of more than 1 million current and former female employees. While two-thirds of the company's hourly workers are female, women hold only one-third of managerial positions and constitute less than 15 percent of store managers.²⁴ The suit also claims that women are pushed into "female" departments and are demoted if they complain about unequal treatment. One plaintiff, a single mother of four, started at Wal-Mart in 1990 at a mere \$3.85 an hour. Even with her persistent requests for training and promotions, it took her eight years to reach \$7.32 an hour and seven years to reach management, while her male counterparts were given raises and promotions much more quickly. For this plaintiff, annual pay increases were as little as 10 cents and never more than 35 cents per hour.²⁵

OFF-THE-CLOCK WORK

While wages are low at Wal-Mart, too often employees are not paid at all. The Fair Labor Standards Act (FLSA), along with state wage and hour laws, requires hourly employees to be paid for all time actually worked at no less than a minimum wage and at time-and-a-half for all hours worked over 40 in a week.²⁶ These labor laws have posed a particular obstacle for Wal-Mart. As of December 2002, there were thirty-nine class-action lawsuits against the company in thirty states, claiming tens of millions of dollars in back pay for hundreds of thousands of Wal-Mart employees.²⁷

In 2001, Wal-Mart forked over \$50 million in unpaid wages to 69,000 workers in Colorado. These wages were paid only after the workers filed a class action lawsuit. Wal-Mart had been working the employees off-the-clock. The company also paid \$500,000 to 120 workers in Gallup, New Mexico, who filed a lawsuit over unpaid work.²⁸

In a Texas class-action certified in 2002 on behalf of 200,000 former and current Wal-Mart employees, statisticians estimated that the company shortchanged its workers \$150 million over four years – just based on the frequency of employees working through their daily 15 minute breaks.²⁹

In Oregon, 400 employees in 27 stores sued the company for unpaid, off-the-clock overtime. In their suit, the workers explained that managers would delete hours from their time records and tell employees to clean the store after they clocked out. In December 2002, a jury found in favor of the workers.³⁰ One personnel manager claimed that, for six years, she was forced to delete hours from employee time sheets.³¹

In the latest class-action, filed in November 2003, noting evidence of systematic violations of the wage-and-hour law, a judge certified a lawsuit for 65,000 Wal-Mart employees in Minnesota. Reacting to the certification, a Wal-Mart spokesperson told the Minneapolis *Star Tribune*: "We have no reason to believe these isolated situations . . . represent a widespread problem with off-the-clock work."³²

Many observers blame the wage-and-hour problems at Wal-Mart on pressure placed on managers to keep labor costs down. In 2002, operating costs for Wal-Mart were just 16.6 percent of total sales, compared to a 20.7 percent average for the retail industry as a whole.³³ Wal-Mart reportedly awards bonuses to its employees based on earnings. With other operating and inventory costs set by higher level management, store managers must turn to wages to increase profits. While Wal-Mart expects those managers to increase sales each year, it expects the labor costs to be cut by two-tenths of a percentage point each year as well.³⁴

Reports from former Wal-Mart managers seem to corroborate this dynamic. Joyce Moody, a former manager in Alabama and Mississippi, told the *New York Times* that Wal-Mart "threatened to write up managers if they didn't bring the payroll in low enough." Depositions in wage and hour lawsuits reveal that company headquarters leaned on management to keep their labor costs at 8 percent of sales or less, and managers in turn leaned on assistant managers to work their employees off-the-clock or simply delete time from employee time sheets.³⁵

CHILD LABOR AND WORK BREAKS VIOLATIONS

The Fair Labor Standards Act and state wage and hour laws also govern child labor and work breaks. These work time regulations have likewise posed a problem at Wal-Mart stores.

In January 2004, the *New York Times* reported on an internal Wal-Mart audit which found "extensive violations of child-labor laws and state regulations requiring time for breaks and meals."³⁶ One week of time records from 25,000 employees in July 2000 found 1,371 instances of minors working too late, during school hours, or for too many hours in a day. There were 60,767 missed breaks and 15,705 lost meal times.³⁷

According to the *New York Times* report: "Verette Richardson, a former Wal-Mart cashier in Kansas City, Mo., said it was sometimes so hard to get a break that some cashiers urinated on themselves. Bella Blaubergs, a diabetic who worked at a Wal-Mart in Washington State, said she sometimes nearly fainted from low blood sugar because managers often would not give breaks."³⁸