

Day Laborers Ban Together to Topple Oppressive Law; Provide Victory for First Amendment

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Guest Post

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For more than two centuries, especially in times of national political and economic upheaval, disenfranchised populations have taken to the streets and sidewalks to find jobs and to demand change. During that same period, it has been those most marginalized who have defended the bedrock right to free speech guaranteed by the First Amendment. So it is fitting that day labor groups have achieved a reaffirmation of this Constitutional and human right in a [recent opinion](#) from the U.S. Court of Appeals for the Ninth Circuit.

Every day, some 200,000 workers search for day labor jobs or work as day laborers across the country. Just like the residents of Hooverilles in the Great Depression, day laborers have become a symbol of much that is wrong with our society and economy – a national trend of reliance on a “just-in-time” workforce, where jobs are subcontracted out to the lowest bidder who pay rock-bottom (and often sub minimum) wages, and a reflection of a broken immigration system that excoriates those who are its victims. In today’s economic and political climate, day laborers are the quintessential example of jobless members of our society who most need the sidewalks to communicate.

For prospective employers, day laborers fill a niche labor market for which there is huge demand – as landscapers, household workers and home repair experts for urban and suburban families and businesses. For the workers themselves, day labor presents a daily opportunity to avoid destitution and a potential to make the transition to a more stable job.

Just like the Wobblies of a century ago – who engaged in free speech struggles up and down the Pacific Coast as they organized hobo workers – day laborers have become targets for those who would suppress their presence and their speech. Along with many cities nationwide, the city of Redondo Beach, Calif. passed an ordinance broadly outlawing solicitation of employment, business or contributions on city streets and sidewalks, citing supposed concerns about traffic safety and traffic flow. In 2004, the city began the Day Labor Enforcement Project. Undercover officers arrested dozens of day laborers.

But as we all know, the First Amendment protects speech regardless of the popularity of its content or its messenger. The workers sued to stop the arrests and uphold their right to search for work in public spaces. Last week, on the eve of [Constitution Day](#), a full eleven-member panel of the Ninth Circuit held in the workers' favor. In no uncertain terms, the Court said: "We agree with the day laborers that the Ordinance is a facially unconstitutional restriction on speech." Guided by "well-established principles of First Amendment law," the Court confirmed that day laborers have a Constitutional right to gather in public places and communicate their need for work.

The Court's [decision](#) in *Comite De Jornaleros De Redondo Beach v. City of Redondo Beach* reminds us that for the length of our country's existence, sidewalks have been a public space. In good economic times, and particularly in bad times, they have been a place for the impoverished to express dire economic conditions and their need to work. Likewise, the streets and sidewalks have been critical ground for labor education, agitation, pickets, protests, and appeals to passersby, including motorists, to solicit support in labor organizing campaigns.

As Pablo Alvarado, executive director of the [National Day Laborer Organizing Network](#) (NDLON) and a plaintiff in the lawsuit said, the decision "serves as a reminder that this country's proudest history is written by those who are treated unjustly, who organize to overcome their mistreatment, and who respond to injustice by fighting for rights that benefit us all." Thank you, NDLON, and to all those who bravely exercise these rights for showing us what Constitution Week is all about.

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