ILO Decisions hold that international standards allow freedom of opinion and expression by employers

It is true that while employers have a basic right of freedom of expression, the ILO has found that certain employer statements amount to interference, which if condoned by the national law, would violate international labor law. Examples of such interference are statements by employers that the establishment of a union is unlawful, or statements encouraging workers to withdraw their membership in the union. U.N. ILOCFA, 356th Rep., Case No. 2301, ¶ 80 Malaysia (2003).

Conversely, statements of fact or expressions of opinion, including factual statements about how to vote against a union in a representation election does not constitute interference. U.N. ILOCFA, ___ Rep., Case No. 2683, ¶ 584 United States (2010). Indeed, even in this case involving the United States, the ILO refused to condemn employer statements to employees encouraging them to "shred" their ballots where the National Mediation Board found that such statements did not constitute interference.

These examples demonstrate that freedom of expression and freedom of association can co-exist under national law in a way that permits an employer to express its opinion and state facts regarding unionization, while at the same time guaranteeing employees their right to organize. U.N. ILOCFA, ___ Rep., Case No. 2683, ¶ 584 United States (2010).

Consistent with the general premise of the ILO that freedom of expression is a cornerstone of freedom of association, the ILO has concluded that labor legislation—like the NLRA-- that permits employers to communicate facts and opinions regarding labor unions is consistent with international labor law, provided the legislation protects workers from communications that interfere with their freedom of association. U.N. ILOCFA, ___ Rep., Case No. 2683, ¶ 585 United States (2010)(citing U.N. ILOCFA, 356th Rep., Case No. 2654, ¶ 381 Canada (2008)).