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HON. ELAINE L. CHAO  
UNITED STATES SECRETARY OF LABOR

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MR. MCINTOSH: Secretary Elaine Chao is one of my very favorite Cabinet members in this administration, and she's been a great friend of the Federalist Society. I believe, if I'm not mistaken, that every year since you've become Secretary you've come to this conference and shared with us. I want to say thank you, Madam Secretary, for that.

I won't belabor the introduction, but I do want to share with you something that has struck me over and over again about Secretary Chao. She took on what in some ways is a nearly impossible political task of taking the head of the Cabinet department in a Republican administration that is least friendly to the Republican agenda.

Her former Deputy, Cam Findley, who's also a good Federalist Society member, gave a speech as he was leaving, and he said the Department of Labor is, in a nutshell, a regulator, a big spender, and a friend of labor unions. That's the department she's been asked by the President to manage.

In the past, people have approached that in several different ways. One way is to acquiesce to the agenda of big spenders, regulators, and labor unions, even in Republican administrations. Other ways have been to fight that, but to do so in ways that create such an uproar here in Washington that really nothing much gets done.

Secretary Chao has managed to do the best of both. She has been a quiet leader there in the sense that you don't see her on the front pages of The Washington Post with the liberals going after her, and at the same time she's accomplished an enormous amount on a free market agenda. I want to mention just a few. As you think back on it 10 years ago, any one of these we would have been considered a huge victory for the cause. She invoked for the first time in 30 years the Taft-Hartley Act in the strike of the dock workers in California. She succeeded in pushing through reform of financial disclosure that the unions have to make so that they can be overseen on behalf of their members.

On her watch, Congress for the first time ever used a new law to repeal a regulation, the terrible regulation on ergonomics. She has put in a process to achieve

rationality in that whole rule making process. Then one that I'm very pleased with -- you have to dig it out of the different reports that come out of OMB, but they monitor each of the agencies and how many regulations they propose each year -- she succeeded, I think in her first year in office, in reducing the number of regulations on their regulatory agenda by over 40 percent.

Those are tremendous accomplishments, and she's been able to do it while at the same time having the grace and poise of a leader that has been successful in this town that many people have found difficult.

So, without further ado, let me give you the Secretary of Labor, Elaine Chao.

SECRETARY CHAO: Thank you, Congressman McIntosh. We've worked together in the past, and it's wonderful to see you again. I look forward to working on other things with you.

It's great to be back at the annual Federalist Society convention. The Department of Labor does have the largest number of Federalist Society members outside of the Department of Justice, and I am very, very proud of that.

I should also say that we have nominations pending in the Senate. One is Howard Bradley, the upcoming solicitor nominee. The President just announced last Friday that Stephen Law is his choice to be Deputy Secretary of the Department of Labor.

I always look forward to speaking to the Federalist Society because of its reputation for principles and thoughtful reflection on the great issues of the day facing our country. The fact that it welcomes the spirited exchange of ideas and different view points is one of its great strengths. At a time when shutting out opposing points of view is all too common, I want to commend the Federalist Society for its emphasis on fairness and inclusion.

Now, the topic at hand is an interesting one to me, and I want to say a few words about that, because as a former Director of the Peace Corps, former President/CEO of the United Way of America, and now Secretary of Labor, I've had lots of opportunities to work very closely with a lot of different non-government organizations. Their growing influence in shaping the policies, the programs and the laws that govern our society should be of great interest to all of us.

Today, non-governmental institutions are major and key players in setting public policy. They achieve this in a variety of ways. One major pathway is their tremendous influence with the media and also with public policy makers. They've become a sort of new source of legitimacy. Advocate groups, often with progressive sounding names, are sought after for endorsements or critiques. They're often determining the outcome of public policy in the process.

So this is just one of the reasons that I've come to believe that transparency and accountability in all sectors are essential to preserving our democratic institutions. They help to clearly define the interests at stake so that the public can

make up its mind objectively about which course of action to support. The Federalist Society is doing its part to make the actions of NGOs more transparent through its NGO Watch project.

Before I go on with my full remarks on that, let me also give you a little update on what's happening to some of the major initiatives that I spoke with you about last year.

Last year, the department played a key role in crafting the President's package on corporate governance reform, but we didn't stop there. On October 3rd of this year, as you heard, the department issued the final rule, after extensive meetings with stake holders and a notice and comment period to improve the financial transparency and accountability of labor organizations. These reforms were long overdue because union financial reporting forms have not been updated in more than 40 years. The new final rule will make it easier for rank and file union members to track how their hard earned dues are being spent and to hold their leadership accountable.

This administration is also pursuing another important regulatory reform that I'm sure you've heard a lot about in the press. We are modernizing the regulations to Part 541 of the Fair Labor Standards Act.

For those of you that might not be familiar with these regulations, these regulations guide the classification of workers as exempt or non-exempt, and thus which white collar workers are eligible to receive overtime. These regulations are so outdated that they list positions that no longer exist in the 21st century workforce, such as legman, straw bosses, key punch operator—I'm not getting any laughter here—gang leader, just to cite a few.

The result is that these outdated regulations are now responsible for more class action lawsuits in the workplace than discrimination complaints. The department has proposed changes that update and clarify the white collar exemption so that they're easy to understand and comply with.

Unfortunately, these much needed reforms have been subject to a massive disinformation campaign, including television attack ads, lavishly funded by advocacy groups. There are actually efforts underway to force a legislative delay in implementing this final rule.

We are holding firm, because if these reforms are not implemented now, it may take years before the law is clarified, and more money will continue to be spent on litigation rather than job creation.

Both of these issues illustrate the power of non-governmental advocacy groups, or NGOs, in shaping public policy. Advocacy groups are a familiar part of the American political landscape, and I'm a strong believer of real grass roots organizations. Strong, private, voluntary organizations have always been the hallmark of a democratic society. In fact, in the early 1800s a visiting Frenchman touring a young America, Alexis de Tocqueville, noted the unique American phenomena of

citizens forming voluntary organizations outside of government to address community issues.

The United States has always encouraged other nations to adopt these principles of free association in civil society. These ideals make possible the formation of private organizations that play a pivotal role in opening up repressive, undemocratic regimes, as Solidarity did in Poland in the 1980s.

But what is notable, and what you need to pay attention to, and what your program is pointing out, is the growing alliance of unelected NGOs and multilateral bodies, such as the United Nations, its various affiliated organizations, and the European Union, to influence the politics and laws of democratic societies.

As George Washington University Professor Gerald Mandheim points out in his upcoming book, *BIS Wars*, many of these emerging NGOs are virtual organizations that would be unrecognizable to Alexis de Tocqueville.

For support they rely primarily on a network of tax exempt philanthropists, not members. They're often transnational in nature, and their special interest agendas tend to reflect a narrow rather than a broad spectrum of public opinion.

This can be a great challenge to those of us leading federal regulatory departments. The staff at the Department of Labor works very hard in studying, developing, and consulting with stake holders on a regulatory proposal that we can put forward, like the two that I had mentioned earlier.

The department carefully weighed the benefits and costs each proposal has on the workforce. It is interesting, therefore, to discover that proposals that have been thoroughly debated and decided by the United States have found new life in a new forum, the deliberations of international multilateral organizations.

The Department of Labor deals frequently with several of these international multilateral organizations. We've noticed that elements of controversial social agendas advocated by NGOs are cropping up more frequently in the documents of these international multilateral organizations.

Here are some examples of recent workplace proposals that have surfaced in international organizations that we're closely monitoring: (1) a proposal to expand the scope of occupational safety and health hazards to include ergonomics standards similar to those rejected by a bipartisan vote in both houses of Congress in 2001; (2) discussion supported by some European countries and Japan on recognizing stress and shouting as major occupational safety and health hazards; (3) discussion of expanding the definition of employment discrimination to include age, family responsibility, language, matrimonial status, property ownership, and sexual orientation; (4) a proposal to broaden the definition of productivity to include social productivity and social stability; and (5) a proposal for a global review of gender equity in the workplace building upon the labor-related elements of the controversial 1995 Beijing platform for action.

These are only a few of the examples of what I'm talking about. International multilateral organizations can be important tools in helping developing nations to improve labor standards that will help build better, more just, and more prosperous societies. We all agree with that. But an increasing number of multilateral organizations are engaged in the business of globalized standard-setting that affects democratic developed nations as well.

Many of these NGOs that advocate new conventions in these multilateral organizations are certain to push hard for their ratification in the United States within the international framework. But it should not be a mechanism for going around our democratic processes and national sovereignty.

To understand where some of these proposals are coming from, it's worthwhile to note the roster of attendees to the meetings of these international organizations. In addition to the official government delegation at a meeting, there often will be a long list of non-governmental organizations accredited as "observers." Among the accredited observers found at a recent general conference attended by our department's officials were organizations whose mission statements support disarmament, the reallocation of defense spending to social needs, quotas based on sex and race, or government intervention in national cultural practices to ensure that they're gender neutral. Again, just to name a few.

These organizations, as you can suspect, do more than observe. Sometimes they're called upon to give presentations in special sessions. They circulate in informal social networking sessions. They take the time to attend these meetings which often last for days or even weeks. Their views help to shape the final outcome by lending international credibility and the mantle of grass roots support through ideas and recommendations.

Proposals such as those I've just mentioned may reflect the views of member governments, especially representatives from the more centralized economies of Western Europe. But in great part they also reflect the growing influence and alliance of NGOs and their agendas. For that reason, transparency and accountability are more important than ever before in international organizations.

It is important for private citizens, as well as governments, to ask, "What is the government structure of these organizations?" A very timely subject these days, I might add. "What are their mechanisms to ensure transparency and accountability?" Sometimes international organizations even offer NGOs a way to address sovereign governments in a more direct way.

I give you another example. There is an international commission created as part of the North America Free Trade Agreement. Its charter allows members of the public to submit complaints that one of the other governments is failing to effectively enforce its labor laws. The governments named in this case, the United States, Mexico or Canada, must investigate each complaint and show that it is groundless or that it has remedied the situation.

Who wants to guess which country is most often the target of complaints? The United States, of course. This complaint infrastructure provides a powerful platform for NGOs to establish the legitimacy of their social agendas. I think you can see where I'm headed.

There's a real need for organizations that believe in liberty to become engaged in this battle for international public opinion and standard setting. All too often our side writes off the United Nations and other multilateral international organizations as a waste of our time and resources. While I admit it does take tremendous stamina and perseverance to engage these groups, and the processes can be exhausting, to unilaterally ignore or abandon the playing field would be a tremendous mistake if we hope to promote the values that we hold dear.

The reality is that multilateral organizations, NGOs, are becoming major, key players in global public opinion and global standard setting. Conservatives need to pay attention to these organizations and the NGOs that influence them. That's why I would really like to commend the Federalist Society for recognizing this phenomena and highlighting it to help more people understand the importance of engagement and the interlocking alliances and relationships that impact public policy that we know very little of.

The Society's NGO Watch program will provide an invaluable resource for those who cherish freedom, liberty, transparency, and accountability. It can help you monitor NGOs and the progress they're making to impose through various ways, including through multilateral organizations, the policies that they are unable to muster enough support at home to enact. I hope that the NGO Watch project will draw attention to some of the activities and positions of these groups and their impact on individual liberties, just as the Society's ABA Watch program did with the American Bar Association.

Just as some of you have engaged the ABA and broadened the prospectus of that organization, I encourage you to pay attention to international multilateral organizations and NGOs that apply for accreditation to these international organizations, participate in their conferences and meetings, and make presentations whenever possible.

As I look through your program today, it is evident that the Federalist Society understands these challenges. I am tremendously impressed by the diversity of speakers who've been invited to speak at this conference. A wide diversity of viewpoints is beneficial to public policy and to every international organization. You above all know in this room that if individual liberty is to prevail, those of us who believe in it must speak up. You understand that freedom-loving individuals cannot afford to treat international organizations and the NGOs that drive their agendas with the intellectual equivalent of benign neglect. We've got to constructively engage these organizations if we are to win the global battle for ideas, because that is a new battleground.

So, I urge you to pay attention to this area, and I commend you again, the Federalist Society, on the diversity of speakers that you have invited to speak at this convention today. President George W. Bush, as you well know, takes the battle over ideas very seriously. I am proud of his leadership and the resolve he has shown in fighting the war on terror and expanding the reach of democracy.

You can be part of this historic effort by answering the call to defend our ideals on the global stage. I am looking forward to your leadership, your participation, and your inspiration. You have made a difference before, and I am challenging you now to make a difference as we go forward.

Thank you for all that you are doing to preserve and protect the principles that keep us free. May God bless America.

Thank you very much.

MR. MCINTOSH: Thank you very, very much, Secretary Chao. You've given us a challenge at the Federalist Society. As one of the board members, I promise you, we'll take it up in deliberations on what we should do to address that challenge you've given us.

The Secretary, unfortunately, has to leave quickly for another appointment, but once again thank you for being such a good leader for freedom in the President's Cabinet, and thank you for coming.

SECRETARY CHAO: Thanks a lot.