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A Labor Law Bosses Would Love

Backed by industrialists, Mexican politicians are on the verge of erasing most workers' rights.

By David Bacon

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MEXICO CITY—Changing labor law sounds like some technical modification, a subject lawyers argue about in musty hearing rooms. In Mexico, it has been front-page news for weeks, as the government considers overhauling the rules governing millions of workers. Changing the country's Federal Labor Law--as described by a bill lawmakers proposed in early March--would transform their lives, and cement the power of a group of industrialists who have been on the political offensive for decades and who now control Mexico's presidency and national government.

"Labor law reform will only benefit the country's oligarchs," claims Andres Manuel Lopez Obrador, who many, if not most, Mexicans think actually won the last presidential election in 2006, as candidate of the left-wing Party of the Democratic Revolution. Napoleon Gomez Urrutia, head of the miner's union who was forced into exile in Canada in 2006, says Mexico's old governing party, the Party of the Institutionalized Revolution (PRI), "is trying to assure its return by making this gift to big business, putting an end to labor rights." PRI members presented the bill to Mexico's lower house on March 10; a vote may be held as soon as this week.

On paper at least, the rights of Mexican workers are extensive, deriving from the Revolution that ended in 1920. At a time when workers in the United States still had no law that even recognized the legality of unions, Article 123 of the Mexican Constitution spelled them out. Workers have the right to jobs and permanent status once they're hired. If they're laid off, they have the right to severance pay. They have rights to housing, healthcare and training. In a legal strike, they can string flags across the doors of a factory or workplace, and even the owner can't enter until the dispute is settled. Strikebreaking is prohibited.

If it is approved, the new law would change most of that.

Companies would be able to hire workers in a six-month probationary status and then fire them at the end without penalty. By limiting the penalty for unjust termination to one year's severance pay, even firing workers with 20 or 30 years on the job would suddenly become much easier and cheaper for their employers. "That's an open invitation to employers," according to Arturo Alcalde, Mexico's most respected labor lawyer and past president of the National Association of

Democratic Lawyers. "The bosses themselves say the PRI reform is the road to a 'paradise of firings.' It will make it much cheaper for companies to terminate workers."

The justification, of course, is that by reducing the number of workers at a worksite, while requiring those remaining to work harder, productivity increases and profits go up. Meanwhile for workers, though, a permanent job and stable income become a dream, while the fear of firing grows, hours get longer and work gets faster, harder and more dangerous.

The labor law "reform" proposal deepens those changes. The 40-hour workweek was written into the Federal Labor Law, which codified the rights in Article 123. That limit would end. Even the current 7-peso/hour minimum wage (\$5/day) would be undermined, as employers would gain the unilateral right to set wages. The independent review of safe working conditions would be heavily restricted.

Mexican workers aren't passive. Work stoppages and protests are much more common than they are today in the United States. Greater activity by more angry workers, therefore, wouldn't be hard to predict. So the labor law reform takes this into account as well.

Even in union workplaces with a collective agreement setting wages and conditions, an employer could force individual workers to sign individual agreements with fewer rights or lower wages. Companies could subcontract work with no limit, giving employers the ability to find low-cost contractors with no union to replace unionized, higher-wage employees. And it would become much more difficult to go on strike.

Corporate power grows, poverty persists

The proposed labor law reform is the fourth in a series of basic changes in Mexico's economic, legal and political framework over the last decade.

A fiscal reform began the process of privatizing the country's pension system, much like the Social Security privatization plans proposed in the United States. Teachers charge that Mexican education reform is intended to remove their influence over the curriculum, which still espouses values that would seem very progressive in a U.S. classroom. In many cases, they say, it will remove them from their jobs also. Current Mexican President Felipe Calderon of the National Action Party (PAN) proposed an energy reform aimed at privatizing the national oil company, Pemex. Fierce opposition, however, was able to restrict it to some degree.

All the reforms have been part of a program of economic liberalization opening Mexico to private, and especially foreign, capital. Lopez Obrador calls the labor law reform "part of a series imposed on Mexico from outside over the last two decades, including the energy reform, fiscal reform and education reform." In fact, the World Bank pressured Mexico to adopt an earlier labor law reform after the PRI lost the presidency in 2000, and Calderon's predecessor, Coca-Cola executive Vicente Fox, won it. The two labor law reform proposals are not identical, but very similar. Both reflect the surging power of corporate employers in Mexico, and the way the PRI and PAN often trade places, pursuing the same political and economic agenda.

"At the same time," Lopez Obrador notes, "the fight against inequality and poverty is not on the national agenda." Mexican poverty is already a scandal for a country whose leaders insist its economic growth merits a seat in the "first world." Changing its labor law would make that poverty more permanent, however, as well as rendering unions more impotent in challenging it.

Juan Manuel Sandoval, a leader of the Mexican Action Network Against Free Trade, predicts,

"We will become part of the first world -- the backyard."

In 2010, Mexico had 53 million people living in poverty, according to the Monterrey Institute of Technology. Even the CIA says half the country's population lives in poverty, and almost 20 percent in extreme poverty. The government's unemployment figures are low--5-6 percent--but a huge number of working-age Mexicans are part of the informal economy, selling articles on the street or working in jobs where the employer doesn't pay into the official funds (the basis for counting employed workers.) Some estimate that there are more workers in the informal sector than in the formal one.

Even the formal jobs don't pay a wage capable of supporting a family, however. According to the Bank of Mexico, 95 percent of the 800,000 jobs created last year paid only \$10 per day. Yet when a maquiladora worker buys a gallon of milk in a Tijuana or Juarez supermarket, she pays more than she would on the U.S. side. Prices are a little lower further south, but not much. The price of that gallon of milk used to be fixed and subsidized, along with tortillas, bus fare and other basic necessities. Previous waves of economic reforms decontrolled prices and ended consumer subsidies, as Mexico was pressured to create more favorable conditions for private investment.

And investors have done very well. In one of the recent diplomatic cables published by Wikileaks, the U.S. government admits "The net wealth of the 10 richest people in Mexico -- a country where more than 40 percent of the population lives in poverty--represents roughly 10 percent of the country's gross domestic product." Carlos Slim became the world's richest man when a previous PRI President, Carlos Salinas de Gortari, privatized the national telephone company and sold it to him. Ricardo Salinas Pliego, who owns TV Azteca, is now worth \$8 billion, and Emilio Azcárraga Jean, who owns Televisa, is worth \$2.3 billion. Both helped current Mexican President Felipe Calderon get elected in 2006.

German Larrea and his company Grupo Mexico got the concessions to operate some of the world's largest copper mines. Grupo Mexico was accused of industrial homicide by miners' union president Gomez Urrutia after 65 people (many of them contract workers) died in an explosion in February 2006. Since June 2007, the Grupo Mexico copper mine in Cananea has been on strike. Last year Larrea and the Mexican government cooperated in using armed force to open its gates and bring in strikebreakers.

In reality, much of the PRI's labor law reform is already the reality on the ground in Cananea, at other mines, or among maquiladora workers near the U.S. Mexico border. For years the rights of workers in northern Mexico, and even the rule of law itself, have been undermined by the growing power of corporations.

Maquiladoras and the erosion of rights

The corporate transformation of the Mexican economy began long ago, moving the country away from nationalist ideas about development, which were dominant from the end of the Mexican Revolution through the 1970s. Nationalists advocated an economic system in which oil fields, copper mines, railroads, the telephone system, great tracts of land and other key economic resources would be controlled by Mexicans and used for their benefit.

The longstanding anger and cynicism felt by many Mexicans toward their political system is in great part a product of the contradiction between the constitutional promises of the century-old revolution -- including the plus the nationalist rhetoric that followed, and the reality of life for most people. Mexicans have the right to housing, healthcare, employment and education, but

millions of people go hungry, have no homes, are sick and unemployed and can't read.

In a desperate attempt to generate jobs and revenue for debt payments, during the last 40 years the government has encouraged the growth of maquiladoras, the foreign-owned factories on the northern border. By 2005, more than 3,000 border plants employed more than 2 million workers making products for shoppers from Los Angeles to New York. In 1992, they already accounted for over half of Mexican exports, and in the NAFTA era, became the main sector of the economy producing employment growth.

Maquiladora development undermined the legal rights of workers in the border area, and any laws viewed as discouraging investment. The government had a growing interest in keeping wages low as an attraction to foreign investment, instead of high enough that people could buy what they were making. The old official unions, including the Confederation of Mexican Workers (CTM) controlled restive workers, rather than organizing them to win better conditions.

One of the most important methods of control is the protection contract. Cooperative unions sign agreements with factory owners, who pay it "dues" for workers who often have no idea that the union and contract even exist. They find out quickly, however, when they try to organize any independent effort to raise wages or improve conditions. The company and official union claim a contract already exists. If workers try to protest, they're forced into a process before "tripartite" labor boards dominated by business owners, politicians dependent on them, and the official unions.

Labor history in Mexico for decades has been dominated by valiant battles fought by workers to organize independent unions and rid themselves of protection contracts. Thousands have been fired, and some even killed. Despite defeats, organizations like the Coalition for Justice in the Maquiladoras (CJM), the Border Committee of Women Workers (CFO), Enlace, and the Workers Support Committee (CAT), have helped workers challenge this system. Some of these battles, fought together with independent unions like the Authentic Labor Front (FAT), have won union contracts, slowly building an independent and progressive sector of Mexican labor.

The FAT and the National Union of Workers, to which it belongs, have made their own proposals for labor law reform. They've suggested making all contracts public to let workers know what union they belong to, and to shine a light on the corruption of the present system. They would reform the labor boards, making its process more usable to workers, and remove some of the government controls used to punish independent unions. The PRI proposal would not make protection contracts public or limit them, nor would it change the labor boards or enhance union rights.

Instead, it takes direct aim at those independent unions, some of which have been organized in fierce fights against shutdowns and privatization, like the recent one at the government-owned Mexicana Airline. New private businesses in aviation and other industries don't want to see these unions spread by organizing their workers. A new private carrier, Volaris, for instance, recently started service to the United States. Now that the government has forced Mexicana into bankruptcy and laid off its workers, Volaris hopes to take over the old airline's routes, and perhaps even its assets. What it doesn't want is the Mexicana union.

The new labor law reform would restrict unions to the one company or enterprise where they start. Industrial, or even craft, unions, representing workers at many employers, would become impossible to organize. The new private businesses in Mexico would face no challenge by a union seeking to set a base wage for a particular industry, for instance. Unions would have

much greater difficulty in organizing solidarity among workers, in any effort like the ones that led to the large industrial unions in either the U.S. or Mexico.

Mexico's embattled independent unions

Progressive unions in Mexico today are fighting for their survival. The state institutions that enforce Mexican labor law are already heavily stacked against them. PRI's reforms would turn the struggle for survival into a desperate war.

The miners union has been forced out of many mines by government-sponsored company unions. Its leader is still in exile in Canada. President Calderon declared Mexico's oldest and most progressive major union, the Mexican Electrical Workers (SME) "non-existent" in October of 2009. He dissolved the state-owned Power and Light Company for central Mexico, and fired all of the SME's 44,000 members who worked there.

Most Mexicans believe that is a prelude to privatizing the electrical industry. Already, despite the Constitutional prohibition, almost half of the electricity generated in the country comes from private producers. Nevertheless, the union has been able to win back its legal recognition and is fighting for the rights and jobs of the 16,000 members who have refused to accept their termination.

Meanwhile, unions in the United States and other countries have tried to find ways of supporting Mexican unions. In February, five international union bodies, the International Metalworkers' Federation (IMF), International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM), International Transport Workers' Federation (ITF), UNI Global Union, and the International Trade Union Confederation (ITUC), cooperated in organizing actions in 40 countries. Over 50,000 workers, students and human rights activists demonstrated at Mexican consulates or otherwise showed their public opposition to the reform. Twenty-seven actions took place in Mexico itself.

The international federations and Mexican unions formed a coalition, which agreed to press the government to abolish the protection contract system and to stop the use of force against strikers at the Cananea mine, the Power and Light Company, and in other similar situations. The unions demanded an end to repression against the miners union and the SME; and that government officials be held responsible for the explosion at the Pasta de Conchos coal mine.

In April, unions, community organizations and even churches and farmers filled Mexico City's main avenue, the Reforma, in a huge march to the central plaza, the Zocalo. Agustin Rodriguez, general secretary of the union for workers at the national university, STUNAM, warned them, "It is clear that they are trying to modify and reform the Federal Labor Law to turn workers into slaves. That will not happen." In the Chamber of Deputies and Senate, legislators from the PRD announced they would begin holding "days of information" in neighborhoods, helping ordinary people understand the changes that await them.

A presidential election looms

As the presidential election of July 2012 draws closer, politicians increasingly try to calculate the way the reform might influence it. For PAN, having PRI introduce the proposal helps cement a political alliance against the left and makes the PRI complicit in the government's anti-labor crusade. This causes problems in the PRI, however. Even some official union leaders, affiliated with the PRI, seek to defend themselves against accusations from their base that they're betraying their union and history. A few have even called the bill an "aggressive attack

on workers," while others advocate more meetings to discuss the proposal, echoing the call by the PRD.

Carlos Navarrete, PRD coordinator in the Senate, ridiculed the secrecy in which the PRI proposal was introduced. "The country needs good-paying jobs, with secure benefits and a level of technology that makes them competitive," he argued, "not stealth initiatives made with no public debate."

The longer the debate goes on, however, the closer the elections approach. Some PRI candidates, at least, would rather not have to defend an unpopular reform, fresh in the memory of voters. They'd like to see a vote as soon as possible. "The PRI and PAN deputies will try to pass it during Holy Week, when people are on vacation," predicts Lopez Obrador, referring to the week leading up to Easter (April 24).

On the defensive or not, though, the independent unions and left-wing activists are far from beaten. They've defeated previous efforts and popular support is on their side. If they can mobilize it effectively, they can still defeat the present proposal and hold the government at bay. July 2012 is not that far away.

David Bacon is a writer, photographer and former union organizer. He is the author of *Illegal People: How Globalization Creates Migration and Criminalizes Immigrants* (2008), *Communities Without Borders* (2006), and *The Children of NAFTA: Labor Wars on the US/Mexico Border* (2004). His website is at dbacon.igc.org.