



NLG Labor & Employment Committee Sponsors Visit to Cuba

Delegates Meet Castro, Elián's Father, Workers, Trade Unionists, Labor Lawyers &

[Editor's Note: The NLG L&EC delegation prepared a collective report from which this article is excerpted. Apologies to the original authors. I sincerely hope the essence of the conference and visit is not lost, nor anything misstated. Although the plight of 6-year-old **Elián González** remains at issue at press time and has broader political implications, I eliminated most references so as to focus on the labor law aspects of the trip. Contact **Dean Hubbard** for a complete report at dean@eisner-hubbard.com and check out the NLG website at www.nlg.org.]

NLG L&EC Delegation to Cuba. A National Lawyers Guild sponsored delegation of labor and employment lawyers traveled to Cuba for a 1-week professional research exchange with Cuban judges, labor lawyers, trade union leaders and workers as guests of the **Central de Trabajadores de Cuba** [CTC]. The delegation also included a union organizer, a school teacher, a staff-person from a nonprofit agency, and the 11-year-old son of one of the attorneys.

Delegation Meets Goals. The visit enabled attorneys representing workers and unions in both countries to learn about the very different legal frameworks and social realities within which they practice law to defend workers' rights. Delegates gained a better understanding of each other's labor laws and labor relations. Additionally, the Cubans provided delegates with information, insight and an evaluation of their new mixed economy. Conversation included ideological issues such as the influence of socialism and capitalism on the formation of respective labor laws. Although delegates felt challenged by the intricacies of Cuban labor law, which impacted, to some degree, debate among the participants, Cuban and American delegates agreed nevertheless that U.S. labor law is seriously flawed.

NLG L&EC delegates meet with Pedro Ross Leal. **Pedro Ross Leal**, the Secretary General of the CTC, and 20 - 25 Cuban labor attorneys met with the delegation at the CTC headquarters in central Havana for a day and a half of meetings and exchanges regarding labor law in the United States and Cuba. The CTC is a federation similar to the AFL-CIO, and **Leal** is considered by some the second most powerful leader in Cuba.

CTC seeks dialogue with AFL-CIO. **Leal** stated the CTC wishes to engage in an open and sincere dialogue with the AFL-CIO in general and with AFL-CIO lawyers in particular; they believe the time is right to do so. **Leal** noted they are open to any type of discussion so long as it is premised on mutual respect. He continued that after 40 years of conflict between the governments, that almost involved nuclear conflagration, and which led to the suffering of many people, it is time to move forward. **Leal** specifically proposed a meeting next year in Cuba or Canada to include U.S., Canadian, Cuban and Mexican trade unionists and labor lawyers. At the close of the trip, the Cubans made it very clear they would like the National Lawyers Guild Labor and Employment Committee to return next year with a delegation at least twice the size. Of course, the labor delegation they would most like to see would have John Sweeney at its head, but the Cubans are patient and eager to build friendships with

Judges At the conclusion of the meeting, **Leonel Crespin**, another CTC leader, amplified **Leal's** remarks of the preceding day for a dialogue between the CTC and the AFL-CIO. **Crespin** echoed CTC's desire to carry out more exchanges with more lawyers, regardless of political or ideological trends, and the need to have AFL-CIO support for such initiatives. He discussed the difficult history of the relationship between the AFL-CIO and Cuba, and particularly the role of the AIFLD as a CIA organ. **Crespin** noted since the election of John Sweeney and his team, the Cubans recognize and appreciate actions taken to change AIFLD. Nevertheless, he commented that no U.S. trade union leaders have been willing to acknowledge officially they are even communicating with the CTC. The CTC wants to talk with the AFL-CIO as noted in **Leal's** comments above. This discussion could address, among other things, the application of the ILO social clauses (labor standards) to trade agreements. Cuban trade union leaders expressed a willingness to analyze this question with the goal of advancing to a common position. As well, Cuba would like to see the AFL-CIO eventually join U.S. church groups and others in struggling against the blockade. **Crespin** indicated they do not view Cuban labor relations system as a model for other countries, acknowledging their problems, but they want to be allowed to continue to develop their model for their own country based on what they believe their people want.

Cubans Are Optimistic. The Cubans on the whole appear rather optimistic about the future of their country in spite of economic hardships due to the blockade. The new economic course seems to be working. It has not resulted in abuses of worker rights and living standards. Cuba's unique ideology assumes the workers' interests **are** the interests of the country, and delegates concluded over their week visit that Cuba remains as true to its ideology as possible in difficult times.

Historical and Political Context. [Thanks to **Ted Franklin** for most of this portion of the article.] Until recently, Cuba's economy revolved around central planning and state ownership of the means of production. The government directly operated most economic enterprises other than small farms, and virtually all employees worked for the state. The United States government imposed an economic blockade on Cuba began in the early 1960s, and Cubans responded by developing extensive trading relationships with the socialist bloc.

The collapse of the socialist economies and governments in the Soviet Union and in its Eastern European allies in the late 1980s and early 1990s shocked the Cuban economy. The major customers for Cuba's exports, particularly sugar, and the main suppliers of Cuba's imports vanished overnight. Trade plummeted. While Cuba was able to maintain its high quality universal health care and education systems and nobody starved, shortages of food, clothing and other essentials appeared.

[continued on page 4]

those North Americans who are ready for a visit.

New San Diego Clinic To Serve Workers' Employment Law Needs

by Mika Spencer

Recognizing a tremendous, unmet need, several San Diego organizations joined together to create the San Diego Employee Rights Center [ERC] which opens its doors in April, 2000. In conservative San Diego, low- and mid-income workers have never had a resource for reliable information and representation for unemployment insurance, minimum wage or overtime claims. No organization or agency, including Legal Aid and the Volunteer Lawyer Program, offers assistance in these areas. The only exception is California Rural Legal Assistance, which serves primarily a rural, farmworker population, and is far from the center of town.

Now, for the first time in San Diego, workers have a place to turn for this assistance - the Employee Rights Center. Initially, the Center will handle unemployment claims and appeals, then add wage and hour claims as the Center matures. Legal problems outside these areas will be referred. All services will be free to the clients, although small donations will be requested.

In addition to being the first clinic of its kind in San Diego, the ERC is also the first collaborative effort among a number of organizations with little or no experience working together. Participating organizations are the Guild's Labor and Employment Committee, the Guild's San Diego Chapter, the Labor Education Fund (a non-profit affiliate of the San Diego-Imperial Counties Labor Council), the National Employment Lawyers Association (NELA) San Diego, and two San Diego law schools. San Diego has no history of labor and its attorneys working with the plaintiff's employment bar, and has, at times, been distrustful of plaintiff's attorneys due to periodic litigation against unions on behalf of individual union members. Plaintiff's employment attorneys may be critical of unions and their attorneys based on issues regarding discrimination within unions. Mistrust is fueled, in part, by mutual lack of knowledge of each other's needs and concerns. The ERC's founders intend to take advantage of the Center, a joint project including labor and employment attorneys, to facilitate communication between these two groups. The goal is to reduce litigation against unions without sacrificing the legitimate needs of union members.

The local Guild Chapter expects the Center to change fundamentally the Guild's visibility in the labor community. While the San Diego Chapter has provided legal observers for striking and picketing unions and certain Labor Council events, the relationship has not broadened until now. Further, the Guild's presence in San Diego is often diluted by local conservative forces which can at times seem overwhelming.

The Center, predictably, has a limited budget. Initial funding was obtained through a \$3,000 grant from the San Diego Foundation for Change, plus a \$2,660 grant from the University of California, San Diego. Expenses in the first year will exceed funds available. Additional funding sources are in the works: the Center received preliminary approval for a contract with the County of San Diego to provide unemployment appeal services to welfare recipients. If finally approved, the contract with the County will provide a minimum of ten clients per month to the Center and will compensate the Center \$200 for each client served. In the case of a successful appeal, the County will pay the Center an additional \$100. The County's interest is in reducing its expenditures for welfare.

The Center is staffed by volunteer attorneys, legal workers and law students, with at least one supervising attorney on-site at all times. Over 30 volunteers have attended two day-long training sessions. The Center has errors and omissions insurance. During the initial period, the Center is open two evenings per month seeing clients on a drop-in (no prior appointment) basis. The Center is presently located in the Labor Council building.

The Clinic is promoted to potential clients through labor, community and religious organizations. Informational notices to generate referrals will be sent shortly to labor and employment attorneys and legal service organizations such as the Legal Aid Society and Volunteer Lawyers Program.

For more information, please contact Mika Spencer at 619-233-1313 or mikaspencer@labornet.org.

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More Local NLG L&EC Activities

SACRAMENTO. Jason Rabinowitz reports the Sacramento NLG has set up a legal task force to draft a living wage ordinance for Sacramento. We are working closely with the working group that has been organizing a Sacramento coalition for a living wage. The coalition is still in formation, but already has significant labor and community support.

BAY AREA. Fran Schreiber reports the SF living wage campaign is entering its second year, and the ordinance is about to be introduced to the Board of Supervisors for a vote. Compromises are inevitable, and the coalition is still considering putting the issue on the ballot if the compromises are too severe.

Job announcements re legal positions in the California State Department of Industrial Relations have been circulated and we are encouraging NLG members and labor attorneys to enter state government positions.

We continue to work with women in the construction trades. Construction tradeswomen have been met for some years now, and continue their efforts to organize a national tradeswomen network, particularly to fight the anti-affirmative action movements around the country. In Anaheim, California July 15 - 16 (tentatively), the 2d annual Joint Labor Women's Conference will convene before the California Labor Federation convention. Tradeswomen will have their own workshops as well as participating in the Conference. The mentoring project to assist bringing women into the trades is progressing. There are also some new ideas that may help remove other major obstacles for women - including welfare recipients - to enter the trades.

TEXAS. Samy Khalil reports the recently resurrected University of Texas - Austin student chapter of the National Lawyers Guild - sponsored a well-attended panel discussion on labor rights on Thursday, March 30. *Labor Rights in the Age of Globalization* focused on the effects of unfettered corporate globalization on labor rights both at home and abroad.

Professor Julius Getman, who teaches labor law at the UT School of Law, spoke on labor abuses in the United States. He centered his discussion on empirical research in his book *The Betrayal of Local 14: Paperworkers, Politics, and Permanent Replacements*, which documents the impact the paper industry's labor abuses have had on local communities in Maine. Getman stressed labor abuses not only affect the lives of workers materially, but also impact their very sense of worth as human beings and as members of communities. Professor Sarah Cleveland, who teaches international human rights law at UT School of Law, discussed labor abuses in Burma. She examined the various legal remedies available to protect global labor rights, explaining why some remedies are more effective than others.

But the most important component of the panel discussion combined legal strategies and remedies with broader political issues. Jere Locke, an Austin community activist who participated in the World Trade Organization protests in Seattle this past fall, addressed the importance of deepening ties between

organized labor and other progressive social causes, including the environmental movement. He also emphasized the deleterious impact of policies of the WTO, IMF, and World Bank on prospects for economic democracy, citing the effects of the IMF's structural adjustment programs abroad as well as less obvious effects of globalization programs in the U.S.

Petra Mata and Viola Casares also brought a much-needed perspective to the program. As the self-described *first victims of NAFTA*, these two worker-organizers gave hard-hitting and emotional testimony regarding the real life consequences of the worst aspects of globalization. Mata and Casares are co-coordinators of *Fuerza Unida*, an organization they founded to protect the jobs and livelihoods of women garment workers at a Levi Strauss & Co. plant in San Antonio. Both were laid off by the company after it decided to move the plant south of the U.S. - Mexico border in search of cheaper labor and greater profits. As Mata put it, "After so many years of working for Levi's, overnight we had nothing." Similarly, speaking from her own personal experience as a woman labor organizer, Casares made clear: "When you empower women, the whole family, the whole community benefits. Women work both inside and outside of the home. We hate to see women go through so much suffering. We ourselves have endured much pain. We women need information, education, and support. This is what *Fuerza Unida* gives to the community." Like the other three panelists, Mata and Casares noted the importance of building and sustaining links with workers in other parts of the world, especially Mexico.

Two members of the National Lawyers Guild student chapter moderated the panel discussion and question and answer period involving an audience composed of more than 40 law students, undergraduate students, and community activists. The labor rights panel was one of many activities conducted over the course of the year by the UT-Austin student chapter of the NLG. Other activities have included co-sponsoring a panel discussion on the death penalty as well as holding a bi-weekly NLG luncheon series. That series has welcomed local progressive attorneys and environmental activists, among others.

With the continuing support of other NLG chapters and committees, the UT-Austin student chapter plans to continue the luncheon series in the fall semester as well as to organize a week long event on the criminal (in) justice system, focusing closely on the abysmal death penalty record in Texas.

Migrant & Immigrant Worker Conference Planned.

Art Read, with Friends of Farmworkers, reports a conference -- *Organizing Low-Wage Migrant and Immigrant Workers* -- is tentatively planned for November 10 - 12, 2000, at Swarthmore. It will bring together migrant and immigrant workers, academics, students, and advocates along with labor, religious and community activists. The goal is to build a movement in the mid-east region to support migrant and immigrant workers to organize, with a focus on agricultural workers. Contact Muna El-Shaks at *Comite de Apoyo a Los Trabajadores Agricolas (CATA)* at 856-881-2507 or catanj@aol.com.

CUBAN PERSPECTIVE. Brief History of Labor Relations in Cuba. Guillermo Ferriol Molina, chief legal counsel to the CTC, presented an overview. The first union was formed in the early 1900s. In 1925, the *Confederacion de Trabajadores* was formed, and in 1939, the *Central de Trabajadores de Cuba*. Although the law provided the right of workers to organize, in practice the right was impeded. **Among other obstructions, leaders were assassinated.** After the 1959 revolution, the new Constitution granted Cuban workers a broad right to organize. The government supports workers' efforts to organize. For example, workers need no pre-authorization to organize, are provided space, and organizing activities as well as union leaders are protected by law.

Fundamental Workers' Rights. The Cuban Labor Code establishes the right to: organize, associate, take action necessary to protect rights, continued employment, and not to be terminated. The Labor Code recognizes the right of workers to participate in unions and with respect to fundamental decisions of the workplace and conditions of work.

Collective Bargaining. A Cuban representative talked about differences after the 1959 Revolution when the means of production were made the property of the state. **She emphasized their society was now a society of workers.** She also discussed the 1983 *Convenio de 74* which called for collective bargaining at all levels and within industries. Collective bargaining is a basic right of union workers. After the 1959 Revolution, through collective bargaining, workers obtained many guarantees such as the right to a basic salary, maternity leave and social security benefits. There are penalties for violations of rights guaranteed through collective bargaining. Delegates also learned about the concept of *perfeccionamiento empresarial* (industry improvement) by which directives are sent to industries and which provides for stronger collective bargaining. Union attorneys participate with trade union leaders and workers in the development of collective bargaining agreements.

Solutions to Labor Disputes. In Cuba there is a stipulated workplace conflict resolution process. One representative of the administration (management), one representative of the union, and one worker representative (directly elected by the workers) are involved in dispute resolution. The administration must provide documents and any other necessary evidence and must also suggest methods to resolve the conflict.

Legislation in 1990 established a system of labor justice to cover about 96% of all workers, founded on the principles of: 1) immediacy (on site resolution), 2) participation of the parties; 3) serenity, 4) simplicity, 5) speed, and 6) socialist values. If the worker is not satisfied with the resolution of a grievance at the worksite, he/she may appeal to the municipal labor tribunal.

There are twelve violations for which discipline can be applied. Discipline can be internal and is administered by management. When a worker commits an infraction, management has 30 days to proceed with discipline. The worker then has 7 days to notify the union. Only a court can discipline a worker by demotion or other change in status. A worker can appeal an adverse decision. In the rare instance where termination is recommended, the worker has 180 days to appeal to the Superior Court, which must hear the case within 27 days.

Another CTC attorney spoke about the new concept of *profilaxis* which emphasizes prevention of labor disputes. The society is now trying to find causes of labor problems before they

occur. They are in the process of training workers as well as union leaders in this new approach. They want harmonious relationships in the workplace to increase economic efficiency. This program began in 1998 and involves labor lawyers, associations of workers, judges, trade union leaders, workers and others as specialists to explore labor relations and application of labor laws. Over 1200 consultants and 8000 activists are now involved. The program offers classes on labor disputes in five provinces of Cuba and expects to cover the whole country in 2000.

Guaranteed Right to Work. Labor Code Article 8 enacted in 1966 guarantees each worker a job to satisfy his/her needs allowing him/her to contribute his/her share to society. This guarantee applies without discrimination on the basis of sex, race, etc. Women are protected during pregnancy and after giving birth. The Labor Code sets up a commission to evaluate which applicants comply with the job requirements for a particular job. The commission includes two union workers to ensure the worker's rights are protected. This commission also decides who stays on the job when there are interruptions in work. Workers who are disciplined are assisted with retraining rehabilitation so they can return to work. Another Cuban speaker explained the policy of guaranteed employment, emphasizing in Cuba work is considered both a right and an honor. All workers in Cuba have a written contract of employment. An oral contract is used only in emergencies and for periods of less than 90 days. New employees are placed on six months probation. All workers are entitled to a month vacation per year.

February 28. The second day of the conference focused on social security, international labor issues and the impact of foreign investment. [*Thanks to Jeffrey Vogt for summarizing part of the conference.*]

U.S. PERSPECTIVE. Foreign Investment. The U.S. panel focused on three major topics: international trade, legal mechanisms, and barriers to international solidarity and international labor rights standards. The panel discussed World Trade Organization and international and multilateral trade agreements such as GATT and NAFTA, explaining the enforcement mechanisms available under those agreements. The group discussed attempts in the U.S. to form partnerships with independent Mexican unions, such as the FAT, the possibility of international bargaining and the legality of engaging in international economic actions such as secondary boycotts. Debate arose over the issue of international labor rights standards. The panel addressed the Clinton administration's battle to sign the Convention Against the Worst Forms of Child Labor and the reluctance of the U.S. to ratify the majority of core labor standards. Cuba has ratified all the core labor standards and considers such obligations enforceable in Cuban courts. The U.S. has not ratified these obligations and, when they have ratified similar human rights treaties, they attach reservations to prevent conflict with existing federal law. The Cubans were proud of their efforts to work with the ILO and ensure implementation and enforcement of labor rights. However, the Cuban delegation expressed some concern about labor rights standards, particularly that the U.S. and other developed countries are currently the most aggressive advocates of labor standards while ignoring labor issue at home. The suggestion that such measures were protectionist rather than altruistic was echoed in the comments of many delegates, who were concerned that labor rights standards were more a tool of economic dominance than worker emancipation.

CUBAN PERSPECTIVE. Foreign Investment. The Cuban panelists presented on the role of foreign investment in Cuba, indicating they feel Cuba has maintained many of the advances of the revolution while opening the economy to foreign private investment. All proposals for investment in Cuba are scrutinized by the appropriate agency to ensure the terms of the contract are agreeable and the goods or services produced are those Cuba and its people require. After a proposal is accepted, the union, once formed, negotiates with the venture on the terms and conditions of work, local wage agreements, etc.. The foreign investor is required to recognize the labor laws of the country and may have its charter revoked should the conditions fall too far below the applicable standards. However, as the Cuban state and the workers participate heavily in the operation and management of the venture, such problems do not often arise. Similarly, in free-trade zones, the same labor laws apply as in the rest of Cuba, unlike free-trade zones in other parts of the Americas. The Cubans explained the proliferation of free-trade zones, particularly in electronics and other durable goods, has resulted in substantial benefits including rent, taxes, and access to products the blockade closed off.

* * *

[What follows is a **very** abridged version of several individual reports of the delegation's day to day activities. Contact **Dean Hubbard** for a complete report at dean@eisner-hubbard.com and check out the NLG website at www.nlg.org.]

* * *

Elizabeth McLaughlin of North Carolina describes a rally of construction workers for Elián, and a surprise meeting with Fidel backstage.

McLaughlin reports, "The room was a sea of red caps and white hard hats, with more people filling the two balconies and milling in the aisles. Our hosts hurried us down to the front rows. A wave of excitement and applause surged through the room moments later as **el Comandante en Jefe** walked in and sat down in the front row. Then the ceremony began: first, with a stunning dance piece by members of the national ballet, followed by speakers from the ranks of the union. Between each set of speakers, there was a live artistic performance: musical selections from well-known performers, poetry, more dance. This was a construction workers' rally, yet here was this amazing mix of art and culture, and it all seemed perfectly natural. (Later, Fidel would tell us what Jose Marti had said, that real freedom can't exist unless cultural activity is free to the masses.)

"The speakers at the rally were incredible: from the fiery young man who spoke first to the 80-year-old **compañera** who brought the entire crowd to their feet as she spoke of the achievements of the revolution and the misery of the Batista regime which she had personally endured. Each speaker demanded loud and clear and quite obviously from the heart: Send Elián home to his father, to his classroom, to his country!

"Fidel did not speak, and neither did we. At the end of the rally, to our surprise, we were whisked backstage and lined up to greet Fidel. If security personnel were around, they were not obvious. Our Cuban hosts seemed just as excited as we were; one of them confided to me that she had never met **el Comandante** face to face before. Within a few minutes, Fidel came backstage and said that he wanted to visit with us briefly, could we join him in a private room? We crowded into the small room and were gleefully held captive for two hours by the leader's philosophical telling of history, infectious sense of humor and charisma.

"Fidel spoke mostly of Elián's case,"

Tomas Margain of California reports on a visit to a Cuban law school, a pharmaceutical research and production center, and to the Universidad de las Americas.

Margain notes of the visit to the pharmaceutical facility, "Our delegation next arrived at the **Finlay Instituto**, a pharmaceutical research and production center. Cuba has developed an advanced pharmaceutical industry—in part out of adaptation to the difficulty of obtaining medicine from the United States, in part out of Cuba's desire to assume a role as the leader of the developing countries on issues of health and medicine, and in part to keep its own nationalized health plan financially stable. The facility we were visiting manufactures a vaccine for Meningitis B for which Cuba is the sole supplier in the world. At this modern scientific complex we were met by some 20 scientists and staff.

"We were ushered to a small anteroom where we were given cookies, candy, and coffee, and then to a lecture hall. This greeting of friendly inquisitive faces accompanied by the strong and sweet coffee would routinely be our introduction to the places we would visit. At first, this custom seemed odd. However, by the end we realized that for the Cuban's, such a welcome was as natural as taking a cake to a new neighbor on your street.

"In the lecture hall, we were treated to a video describing Cuba's meningitis vaccine. Afterwards, a group of scientists discussed with us Cuba's medical research to find cures for meningitis, hepatitis, and AIDS. Amid the description of these achievements, our hosts stressed the damage the U.S. blockade against Cuba had caused. Many of the materials used at the center, and for that matter medicines used by Cuban hospitals and doctors, were many times more expensive than the same goods that could be acquired in the United States, Central America, and the Caribbean. In recent years, the blockade has eased to provide an exception for medical supplies, but even this "humanitarian" exception has a twist. None of the medical goods are permitted to go to the Cuban government which provides free health care to the entire Cuban population. The goods are provided to the Catholic church and other private bodies. Of course, many companies are unwilling to sell Cuba medical goods for fear of violating the U.S. blockade."

Cindy O'Hara of California reports the visit to Santa Clara, which included a visit to the Che Guevara memorial and to the IMPUD factory.

IMPUD, the main industry in Santa Clara, was founded by Che Guevara in the first years after the revolution to make household products and appliances to reduce Cuba's need to import such goods and reduce Cuba's need for agricultural exports to purchase such goods. In 1959 Fidel made Che head of the **Industrialization Department** to develop this sector of the emerging independent Cuban economy.

O'Hara notes, "At IMPUD, we met with a contingent of approximately 25 workers from the factory including the manager, the head of the union, the communist party representative, and the head of the young communists league. They told us of the development of the factory, and answered many of our questions. For example, they spoke of the program of social labor, under which each year IMPUD sends some of its workers to work on construction projects or help with the sugar harvest. When we inquired what would happen if the factory could find no one to go on these projects, the workers looked surprised and replied that such was never the case and that, on the contrary, there was competition to be chosen to take part. We asked what the union would do if a supervisor was

being abusive to the workers under his supervision. They again looked surprised and explained that we had to remember that no one became a supervisor without the approval of the union, and that the union and management were in constant communication, working together so that such a situation would not develop. The union leader explained that the manager himself had come up through the ranks of the workers, and that the interests of management and the union were the same, that is the success of the plant. We could see that we had to really retool our thinking to understand a factory where plant management is not driven by the mandate to make the highest profits while getting the most production out of the workers for the least amount of wages.

"The work of IMPUD during the *special period* [the period that followed the collapse of Cuba's socialist trading partners] provided a glimpse into one of the benefits of a country-wide planned economy. During [this period] petroleum supplies in Cuba dried up and alternative transportation was sorely needed. The government directed IMPUD to shelve the production of household goods and commence 24 hour production of bicycles. The factory rose to the challenge and produced bicycles until the shortage eased."

Joshua Rubinsky of Pennsylvania describes a Santa Clara provincial court visit.

Rubinsky reports, "Our hosts explained that the reality in Cuba is a labor court based on responsibility shared among union, industry and the judiciary - under which employees grievances are addressed in one to three weeks, with the time period to file post trial briefs limited to several days.

"Labor law practice in Cuba has some real similarities to labor law practice in the United States....

"The individual worker and the Union have several different options under the Cuban system of labor relations. Grievances can be brought to mediation, arbitration or the court. The individual worker has the right to use the labor court on his/her own. Examples of types of issues that come before the court are challenges to termination, discipline, disability, pension, reduction of employment."

Amy Martin of California provides a personal account of the delegations close encounters with Cuba's tourist industry.

Martin noted, "the water supply to our hotel in Santa Clara had inexplicably been cut off," to which hosts replied, "This is Cuba." Such was the flavor as the delegates boarded a tour bus to Varadero, home to Cuba's plushiest resorts. Martin continues, "It was at one of these resorts, the *Sol Palmeras*, that we had the opportunity to speak to hotel employees and their union representatives.

"It is impossible not to note the impact of the American dollar in Cuba. Those who have access to tourist dollars appear to have the best opportunity to advance financially. In my mind at least, it seemed that this potential disparity in income might be greatest threat to the continued viability of the revolution. Varadero provided the first graphic opportunity to address the issue. We were told by the hotel representatives that access to tourist dollars was indeed a concern. Only 40% of hotel employees have direct access to tips; the other 60% do not. In an effort to equalize tip revenue, employees with access are allowed to keep a portion of their tips but are expected to turn over the rest for redistribution to other resort workers who work 'behind the scenes' and to support Cuba's system of free medical care.

"As an attorney who represents hotel employees in the United States, I was very interested in learning how the Cubans balance the

rights of their workers against the need to please customers. When I explained to the hotel delegation that an American worker could be fired based on a customer complaint, the Cubans present were visibly shocked. They assured me that this was not the case at Varadero. They searched their memories concerning the case of the last worker who was fired as the *Sol Palmeras*, perhaps three or four years earlier, and recalled that the worker had engaged in 'very unprofessional conduct.' Apparently, termination by the employer is very rare."

Gail Lopez-Henriquez of Pennsylvania describes a private meeting with Elián's father and grandparents, the President of the Cuban National Assembly, and the international press.

Lopez-Henriquez noted of their meeting with the international press, "We were a media event before we said a single word." Of their private meeting with Elián's father, she noted, "González spoke at length about his relationship with his son. While he seemed somewhat nervous and uncomfortable at first, he spoke with confidence and without hesitation. At no time did his remarks seem scripted or unnatural. He said that he had never before been away from his child and it had now been 3 months and 13 days since he last saw him. He told us that he calls Elián in Miami everyday. However, he is not always able to speak with him. He stated that the relatives sometimes don't allow Elián to come to the phone, disconnect the phone, interrupt the conversation, make background noise and sometimes take the phone away from Elián and make insulting remarks to González. He feels that no father in the world has been more intensively investigated than he with respect to his relationship with his child."

Conclusion. Dean Hubbard, coordinator of the trip on behalf of the U.S. delegation, concludes, "Following the press conference we returned to our hotel, where we had a roundtable discussion with our hosts evaluating the events of the week. We all agreed that the exchange had been of tremendous value, and should become an annual event with more delegates from the U.S.

"That night we 'hosted' a farewell party for our Cuban friends at the rooftop, open air restaurant of the CTC's hotel in Central Havana. Fittingly, our visit ended with all the members of both delegations dancing together in an unbroken circle.

"Since our return to the U.S., the members of our delegation have taken every opportunity, through letters to Janet Reno, interviews with television, radio and print media, organizing demonstrations and symposiums, and e-mails and postings to web sites, to spread the word about what we learned in Cuba, and to speed the reunion of Elián with his father. Please join us in our demands: **Send Elián home today! End the blockade now! Viva Cuba Libre!**"

**Join the NLG L&EC Cuba trip next year
and/or
the IADL Congress**

**ATTEND the 15th Congress
of**

**International Association of Democratic Lawyers (IADL)
Havana, Cuba - October 16-20, 2000**

Contact Steve Goldberg, NLG Intl Comm, 503-224-2372 or
sgold3631@inetarena.com - see also www.iadllaw.org

Come to Havana!

IADL Congress Set for October 2000

The 15th Congress of the International Association of Democratic Lawyers (IADL) will be held in Havana, Cuba from October 16-20, 2000. It is a tremendous opportunity for Guild lawyers, legal workers and students - whatever their past involvement in international legal issues - to learn about IADL's efforts to establish a just international legal order, to meet colleagues from throughout the world, and particularly to celebrate and support our comrades in Cuba!

In particular, several sessions at the Congress will focus on issues relating to international labor rights and how international law can be used in labor struggles in the US and internationally.

IADL, created in 1946 by jurists who fought in World War II and participated in the Nuremberg Trials, is an organization of lawyers to promote the defense of peace, fundamental human rights, and to support the aims of the United Nations. It is composed of legal groups such as the Guild from throughout the world: South Africa, India, France, England, Vietnam, several Arab countries - wherever people struggle to use law to bring about social and political change.

Particularly with the collapse of the Soviet Union, IADL has had to adapt to a changing world economically and politically. Historically it was one of the first organizations to send legal delegations to numerous countries to report on human and legal rights abuses. In the past year, IADL has sent delegations to Mexico, convened an international commission in Paris to evaluate international legal remedies for NATO's illegal bombings in Yugoslavia, and conducted a seminar in India on globalization and its implications for developing economies. As an NGO (non-governmental organization), it is a consultant to UNESCO and to UNICEF and participates regularly in the proceedings of the UN Human Rights Commission and its various sub-commissions.

For information about the conference, visit IADL's website: www.iadllaw.org or contact **Steve Goldberg**, International Committee chairperson at 503-224-2372 or by email: sgold3631@inetarena.com.

Top U.S. Clothing Retailers Settle Saipan Garment Worker Lawsuits

Honolulu - Eight more leading U.S. clothing retailers - Calvin Klein Inc., Jones Apparel Group, Liz Claiborne Inc., The May Department Stores Company, Oshkosh B'Gosh Inc., Sears, Roebuck and Company, Tommy Hilfiger USA Inc., and Warnaco, Inc. - have agreed to settle claims against them in a federal class-action lawsuit alleging sweatshop conditions in the garment industry on the Western Pacific island of Saipan, a U.S. Commonwealth.

With these additions, 17 U.S. retailers have agreed to pay a total of \$8 million in settlement and to adhere to a rigorous system of independent monitoring at the Saipan factories of contractors who produce their clothing. The settlement provides that in future supply contracts, retailers will require factories to comply with

[continued from previous column]

strict employment standards, including guaranteeing overtime pay for overtime work, providing safe food and drinking water, and agreeing to honor employees' basic human rights. The settlement agreement requires court approval and does not involve an admission of wrongdoing by the defendants.

That leaves The Gap, J.C. Penney, Target and Lane Bryant, among other defendants, who have not agreed to settle these claims. None of the primarily foreign owners who actually operate the garment factories on Saipan have yet agreed to settle.

"This is an important step in the right direction. We are glad to see these companies take a stand for human rights on Saipan," commented Medea Benjamin, President of Global Exchange.

"These settlements will dramatically improve the lives of thousands of garment workers on Saipan. The strict and independent monitoring established will insure that in the future rights will be protected and laws obeyed," said Jay Mazur, President of UNITE!.

Under the settlement terms, the 17 companies will each make a one-time contribution to a fund to finance an independent monitoring program, as well as payments to workers, and for public education, administration costs and attorneys' fees.

"As a result of these settlements, the first legally enforceable set of monitoring standards have been agreed to by retailers and will provide a model for the rest of the industry to follow," said NLG L&EC member **Lora Jo Foo**, an attorney with Asian Law Caucus and Sweatshop Watch.

Verité, an Amherst, Massachusetts-based non-profit group, will independently monitor compliance, exercising far-reaching powers to oversee the conduct of contractors doing business with the settling retailers, including surveillance, announced and unannounced visits to facilities, and investigations of worker complaints. The monitoring body can provide for payment of back wages, reimbursement of impermissible recruitment fees, and even recommend the termination of contracts where a pattern of violations exists.

Verité will report jointly to the retailers and to plaintiffs in the two settled lawsuits. Plaintiffs include two international human rights groups, Global Exchange and Sweatshop Watch; the Asian Law Caucus; and UNITE!, the labor union which represents many garment workers. **Verité** has extensive workplace monitoring experience, and previously served as an independent monitor under agreement with Tommy Hilfiger USA Inc., among others.

The two lawsuits at issue were filed in January, 1999. One is a class action alleging violations of U.S. anti-peonage and indentured servitude laws and of international human rights law, initially filed in Los Angeles federal court and recently transferred to Hawaii. The other is an unfair business practices case filed in San Francisco Superior Court.

The litigation will continue to be prosecuted against the Saipan factory owners and several other major U.S. retailers who have yet to settle. Plaintiffs are represented by the San Diego firm of **Millberg Weiss Bershad Hynes & Lerach** and the San Francisco firm of **Altshuler, Berzon, Nussbaum, Rubin & Demain**.

Organizing Workers - Indonesia Realities

by Paul Filson

Indonesia is just emerging from 30 years of corrupt military dictatorship. During those 30 dark years freedom of association, collective bargaining and organizing were not allowed in any meaningful way. Now that a democratically elected government is in place, a real opportunity exists to establish democratic trade unionism and balance to corporate arrogance.

The purpose of my work in Indonesia was to begin a process of developing an infrastructure which could result in meaningful collective bargaining in the garment and textile sectors of the trade union movement. My mission was to train local union officers from 2 union federations to conduct collective bargaining campaigns which might result in negotiated settlements between unions and companies. After touring several factories and several neighborhoods where workers live, I conducted a 7 day seminar for 34 union leaders from 15 local union organizations.

As I soon discovered, the state of workers' rights in Indonesia left much to be desired. Workers in factories are paid so little that many are forced to live dormitory style in tiny rooms without water, toilets, windows or sometimes even electricity. I visited several neighborhoods near factories or free trade zones where women workers were living 4 or 5 per 9 by 9 foot rooms - without furniture and forced to sleep on the floor.

Pinpointing a minimum living wage is sometimes difficult since it is a moving target due to currency exchange rate fluctuations. Regardless, the legal minimum wage is approximately \$1 or \$1.25 per day. Not included in this rate are mandated allowances for transportation and for meals. In addition there are mandated year end bonuses and mandated paid leave dates (with an extra 2 days per month for menstrual leave for women). All of this does not add up to anything even close to a living wage. Surprisingly, the minimum wage has been interpreted by companies as being the maximum wage they can pay. The unions and workers have, to a certain extent, bought into this interpretation. Not surprising is the fact that wages are, by far, the most important issue workers talk about in why they need effective unions. As pathetic as the minimum wage is, workers told me they wanted their unions to fight for companies to live up to their obligations to abide by Indonesian law and pay at least the minimum.

There are over 24 different union federations that are recognized or have applied for recognition by the government. The largest recognized non-yellow union federation is the SPSI/Reformasi. Their textile, fiber, garment, shoe and toy division, TSK, claims to represent over 550,000 workers in 675 factories. I met with the President of the Federation, Rustam Aksam, and he explained that only 64% of the textile division is actually covered by some sort of a collective bargaining agreement, and that many of these are merely agreements by the companies to pay the minimum. He said they did have some CBAs that are well above minimum. Part of the problem was that under the dictatorship there was just one contract for each region of Indonesia, and they were now in the process of trying to convert to all local

agreements. Only 60% have dues check-off systems, and even so, dues, which are .5% of pay, are not systematically collected.

The training session provided me with an extensive opportunity to talk with workers who live the reality of Indonesian factory work. The basic structure of the seminar walked workers through the collective bargaining process in the United States and allowed for ample opportunity to discuss points of commonality with Indonesia. Indonesian labor law and its application were also reviewed.

There was a lot of interest in how Indonesian unions could engage the international community to help win a contract. Most workers were aware of international organizations based in Indonesia which might help in a fight for a contract. There was enthusiastic support for developing links with the U.S. trade union movement. The reality of Indonesian labor law and its non-enforcement or corporate complicity continually set a pall over our group. In addition, workers worried about the unreasonableness of foreign owners, and they feared these owners would close or move plants just to spite workers.

During the seminar, the question of Codes of Conduct was extensively discussed. None of the 34 workers in my seminar knew much about the Codes. The Reebok workers knew they existed, but they were sure that the codes had no effect on their working conditions. The Gap workers, Adidas workers, and Nike workers were not familiar with the existence of Codes. Everyone was interested in how the Codes could be used to enhance their bargaining positions.

In summary, there needs to be a greater awareness of the plight of Indonesian workers and their unions. This can be accomplished in several different ways. The best way would be to launch an international campaign around labor abuses at a particular transnational company. Linking a campaign to collective bargaining problems would be ideal. Another way to raise awareness would be to arrange a USA tour for Indonesian plant level union leaders. The workers would tell their stories of oppression and poverty at particular corporations with codes of conduct like the GAP.

In order to win the incorporation of labor standards and freedoms into the global economy, we need the help and cooperation of unions and workers in places like Indonesia. We can help these unions and workers develop their voices so that they too can speak out against the transnational corporations and their cronies in corrupt governments around the world.

[This article was forwarded by **Chuck Szymanski**, who edited it from a much longer piece. **Paul Filson** is the Pennsylvania Manager for UNITE and has been active in the labor movement in various capacities for the past 20 years.]



UFW Strawberry Victory as ALJ Splits Statewide Unit

Oxnard area workers at Coastal Berry Co., the state's largest strawberry grower with about 2,000 acres of strawberries, raspberries and blackberries in Monterey, Santa Cruz and Ventura Counties, should be represented by a bargaining unit separate from employees in the Watsonville area, according to a March decision by Agricultural Labor Relations Board Administrative Law Judge Thomas Sobel. The UFW lost a statewide runoff election at Coastal in June, but it won the support of workers who voted in the Oxnard area.



If the Agricultural Labor Relations Board agrees with the ALJ at a future hearing, the UFW would represent the Oxnard area - Ventura County - workers in labor negotiations. The ALRB will still have to sort through dozens of election objections filed by the UFW to decide whether the Coastal Berry Farmworkers Committee [CBFC], an employer-dominated group, can represent workers in the Watsonville area.

"The workers in Ventura County want the UFW, so they should have what they voted for," UFW spokesman Marc Grossman said. The UFW has made the battle to represent Coastal workers the cornerstone of its 4-year effort to organize the state's 20,000 strawberry workers in the \$600 million-a-year strawberry industry. But organizing Coastal has proved to be a frustrating task for the UFW due to the CBFC.

The Oxnard workers voted 321 to 277 for the UFW in the statewide June runoff; and workers near Coastal's headquarters in Watsonville chose the CBFC by a vote of 448 to 295. Overall, then the CBFC had 725 votes compared with 616 for the UFW.

The UFW immediately challenged the election on numerous grounds, including the composition of the statewide bargaining unit. While the UFW initially asked for a statewide bargaining unit, its objections said the Oxnard and Watsonville workers should be represented separately. The ALJ agreed. The CBFC will appeal Sobel's ruling.

Sobel ruled that workers in the Watsonville-Salinas area and in Ventura County have little contact with each other and report to different supervisors. "I find the separate geographic areas lack the requisite community of interest to constitute a statewide unit," Sobel wrote.

The NLG L&EC provided training for new labor attorneys and for the staff of the UFW legal department several years ago to assist with legal representation requirements for the strawberry campaign.

AFL-CIO Calls for a New Immigration Policy

The AFL-CIO Executive Council at its February meeting passed a resolution calling for blanket amnesty for illegal immigrants, an end to most sanctions against employers who hire them, and a broad new program to educate immigrant workers about their rights.

This was a significant reversal of an old policy that failed to recognize the immigrants whose energy and radicalism have contributed to labor's strength. In decades past, unions often saw immigrant workers as the enemy, accusing them of depressing wages and breaking strikes. But the new policy recognizes that too often immigration rules helps employers exploit illegal immigrants.

The policy reinforces the idea that all workers must be organized and part of a larger social movement. Immigrants comprise an ever-larger part of the nation's work force, and labor is trying to organize hundreds of thousands of immigrants who work in farms, hotels, construction, meat packing and many other industries. Labor leaders complain unscrupulous employers often fight off unionization drives by threatening to fire employees who are illegal immigrants and support unions, and by calling immigration officials to deport them. The new policy is a way to make it easier to unionize businesses that employ illegal immigrants by making it harder for employers to intimidate them.

"We, the labor movement, have to put ourselves in a leadership position in immigrant rights," said Arturo Rodriguez, president of the United Farm Workers. "This is a way to help low-wage immigrant workers."

"The present system doesn't work and is used as a weapon against workers," said John Wilhelm, chairman of the labor federation's Committee on Immigration Policy and president of the Hotel Employees and Restaurant Employees Union. "The only reason a lot of employers want to hire a large number of illegal aliens is so they can exploit them."

Labor leaders said they hoped their new policy would help persuade Congress to pass an amnesty law that would enable immigrant workers to stand up for their rights.

David Bacon, labor journalist noted, "Sanctions are more than a racist aberration. For a century immigration law has been used to lower the price of immigrant labor in the U.S. Sanctions made that labor even more vulnerable, and thus cheaper. It was a sweatshop subsidy to U.S. employers.

"... many labor and immigrant-rights activists opposed . . . sanctions. In the years since 1986 their patient work convinced the garment, electrical and service employees unions and the California Labor Federation to call for their repeal.

"... Immigration has transformed the workforce, not just in the west but ... throughout the country. Coalitions between immigrant communities and unions [are] the bedrock of strikes and organizing drives. ... over the last decade immigrants have become vocal and active members, and important leaders, of many unions."

Labor support is still needed to address some immigration issues that didn't make it into the resolution, including an end to the program of enforcing immigration law in the workplace. Bacon notes, "Thousands of immigrant workers have been fired as a result of that program, their labor rights have been denied, and federal agencies from the Department of Labor to Social Security have been turned into immigration agents.

"The AFL-CIO plans a series of town hall meetings this spring to highlight these abuses of immigration law enforcement."

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Guild Sugar Law Center Provides Valuable Assistance

by David Santacroce

While news headlines still boast a record booming economy, the **Guild Sugar Law Center** continues to receive weekly calls from workers around the country who receive virtually no prior notice before being laid-off. Since 1991 our **Plant Closings Project** has provided legal assistance to thousands of laid-off workers fighting corporations who violated workers' legal rights under the federal Worker Adjustment Retraining Notification (WARN) Act.

It's Time to Dismantle Corporate Fiction Corporations Are Not Persons

The growing concentration of wealth and power in corporate America, and its increasingly sophisticated and deceptive use of the corporate form to avoid legal obligations, can be seen clearly in the GLC's WARN Act docket. Better than half the Center's current WARN cases involve defendants *other* than our clients' nominal employers. In these cases, the ultimate wrongdoers are frequently the related individuals or corporations, who, by conscious choice, put our clients' direct employers out of business. However, finding a legal path through the barriers of the *corporate veil* - set up to shield the responsible party - is a sticky proposition, and the number of devices used to escape obligations to workers (and often others) is only limited by corporate America's imagination.

One example is Weathervane Window Company, a father-and-son family owned business which made a single product under a single roof. Under that same roof, however, these 2 owners housed as many as 4 separate corporations, each of which either made a significant component of the Window company's final product or owned the realty and/or equipment used by the company. It's clear the company was deliberately run into the ground as part of the owners "exit strategy" from the industry, with resources redirected so as to fill the pockets of the owners and their related corporations. Over 250 people lost their jobs without a moment's notice, many of whom had worked for the company for upwards of 15-20 years.

The Worcester Company, an east coast textile mill closed and fired 400 employees with almost no warning late last summer. The Mill - a family-owned fixture in the community for generations - was bought by a mid-west venture capital group a year prior to the closing. The purchase price was largely the previously incurred debt the mill owed the group. The group ran mill operations largely from afar, careful always to filter directives almost exclusively through a single, hand-selected mill employee. When the group failed to make the mill profitable, they closed it by cutting off financial support. The mill was penniless and put into receivership. The group has denied any responsibility for the mill's closure or failure to give its employees advance notice, and actually seeks to take all the proceeds from the sale of the mill's physical assets. Although liability is strong, and the actual corporate owner is solvent, the workers face an uphill battle to recover against the venture group,

the true culprit, unless the *veil* of the *corporate fiction* can be pierced, a burdensome undertaking.

In all cases, the **Guild Sugar Law Center** is fighting for damages for each worker. We know it will be very difficult to untangle the maze of corporate faces and transactions and lay bare the greed that drove the process. Never veering from their obsession with the bottom-line, corporate actors are becoming increasingly sophisticated in their manipulation of the corporate form to the detriment of workers. Health benefits are abruptly cut; paychecks come to a halt, and families and entire communities are left reeling in disarray without the governmental adjustment assistance and re-training that advance WARN notice triggers. Progressive lawyers must remain firm in their commitment to uncover and confront such misdeeds.

These WARN Act cases and many similar ones underscore the serious need legally and politically to challenge reliance on *corporate fiction* when used to evade deliberately one's legal obligations. We must challenge the premise of the *corporate fiction* doctrine so those actually responsible for the demise of an entire workforce may be held accountable without the heavy burden of having to *pierce the corporate veil*. The **Guild Sugar Law Center** will continue to challenge efforts by corporate America to skirt their responsibilities to workers and the community.

CONGRATULATIONS!

Arbitrator Awards Domestic Partners Benefits to Connecticut State Employees

A neutral arbitrator awarded family health and pension coverage to state employees who are living with same-sex *domestic partners*. Eligible couples would be those living together in a serious committed relationship, and mutually dependent for at least 1 year; their children would also be covered. The decision results from an arbitration between the State and SEBAC, a coalition of state employee unions. "This decision simply recognizes that the crucial need for working families to have decent health and pension coverage doesn't disappear just because the families are headed by same-sex couples," said NLG L&EC member **Dan Livingston**, chief negotiator for the coalition. "It recognizes that when children get sick they need health care. The gender of their parents makes no difference." The Arbitrator estimated the cost to the State as \$1.3 to \$1.5 million annually. "This is a minuscule amount of money when compared to overall State personnel costs of over \$2.8 billion dollars - well less than 1/10 of 1%," **Livingston** said. "It's well less than 1% of this year's surplus. No one could fairly argue that we lack the funds to pay for this award."

Jury Awards over \$9 million to Wrongfully Terminated Kaiser MD

NLG L&EC member **Stephen Schear** of Oakland brought in this Alameda County verdict on behalf of a 45-year-old physician at Kaiser in the occupational medicine department. She reported to 4 high level administrators various illegal, fraudulent workers' compensation practices before she was fired in July, 1996. An appeal has been filed by Kaiser, but the trial victory is significant.