



**Report of the United States Delegation to the  
International Conference on the Role of Unions and Labor  
Lawyers in Protecting Social Security and the  
Ninth Bilateral Research Exchange among  
Labor Lawyers, Trade Unionists, Neutrals and Scholars  
Havana and Sancti Spíritus Cuba  
March 15 through 23, 2008**



**Sponsored by the American Association of Jurists and  
Association of Latin American Labor Lawyers  
Endorsed by the National Lawyers Guild  
Labor and Employment Committee and the  
Central de Trabajadores de Cuba (CTC)**

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Note: The opinions expressed in this Report are those of the individual authors, not necessarily those of the National Lawyers Guild, its Labor and Employment Committee or any organization with which the authors or other participants may be affiliated.

## **I. Introduction**

**(By Dean Hubbard and Joan Hill)**

The ninth bilateral (U.S./Cuba) and fifth international program of research and exchange between labor and employment lawyers and scholars from the United States and Cuba took place from March 17, 2008 to March 22, 2008 in the City of Havana and the Province of Sancti Spiritus. Following the framework from recent years, the 2008 project began with a two-day International Conference sponsored by the American Association of Jurists (AAJ) and the Latin American Association of Labor Lawyers (ALAL), with the endorsement of the Labor Law Society of the National Union of Jurists of Cuba (UNJC) and the Labor and Employment Committee of the National Lawyers Guild. The conference was further endorsed by the Central Trade Union of Cuban Workers (CTC), the World Federation of Trade Unions, Americas Region (WFTU) and the Cuban National Association of Law Collectives. Labor lawyers and trade unionists from Argentina, Brazil, Canada, Cuba, Ecuador, Mexico, Spain, and the United States came together as part of an international exchange focusing on the growing role of labor lawyers and trade unionists in the Americas in upholding the obligation of the state to protect workers' social security.

The L&E Committee's Cuba solidarity work continues to take place during a time of harsh economic realities for workers in Cuba, due to the U.S.-imposed blockade of Cuba. Our analysis of Cuban labor rights recognizes this reality along with the regulatory environment of the Bush Administration, which seeks to further restrict U.S. citizens from traveling to Cuba. Notwithstanding these hurdles, the participants worked to build upon the relationships and knowledge established by previous delegations. As before, the theme of this project has been to engage in open discussions and bring opinions together towards one principle: Solidarity.

Prior to leaving the United States, delegates were provided various documents to aid in their understanding of the realities of trade union activity in Cuba. These readings included the works of Attorney Debra Evenson, who has practiced in Cuba and the United States, and is a past-president of the National Lawyers Guild. These included her analysis of the political system in Cuba, *Law and Society in Contemporary Cuba*, 2<sup>nd</sup> ed. (2003), as well as her comprehensive look at trade unions in Cuba, *Workers in Cuba: Unions and Labor Relations* (2002). Participants were also provided with an excerpt from an article by Steve Ludlam, "The World of Work in a Changing Cuba." *CubaSi*, Winter: 2007, pp. 16-18.<sup>1</sup> Finally, participants were also asked to read "Dancing with the Enemy: Cuban Popular Music, Race, Authenticity, and the World Music Landscape" by Deborah Pacini Hernandez.

Readers should understand that this report reflects the impressions, and in some cases the opinions, of the authors and is not comprehensive. Each delegation is unique to itself and the participants bring to the project their own impressions and interests. Some of the 2008 participants have been to Cuba several times as part of this ongoing project and therefore, have developed a higher level of familiarity with Cuban law as it applies to labor relations. This report should be read in the context of previous NLG reports, which are available upon request from delegation coordinator Dean Hubbard, [deanhub@gmail.com](mailto:deanhub@gmail.com), or co-coordinator, Joan Hill, [johill@usw.org](mailto:johill@usw.org). Previous reports are also posted for download at the NLG L&E Committee website, <http://www.worksafe.org/nlglaboremploycomm/international.cfm#Cuba>.

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<sup>1</sup> Dr. Ludlam was a delegate to this event in 2005.

## **II. International Conference**

The objective of the conference was to debate a set of topics on the roles of labor lawyers and trade unions in mobilizing the state to carry out its social responsibility to protect the economic, social and cultural rights of working people. This first section of the report summarizes many of the presentations made at the international legal conference.

### **Opening**

At the opening session, we were welcomed by Antonia Raudilio Martín Sanchez, First Vice President of the American Association of Jurists (AAJ) and the President of the Cuban Society of Labor Rights and Social Security, Dean Hubbard, Professor and Co-President of the Labor and Employment Committee of the National Lawyers Guild, and Jose Luis Contreras of Mexico, President of the Association of Latin American Labor Lawyers.

Speaking on behalf of the National Lawyers Guild Labor and Employment Committee, Dean Hubbard noted that we have a candidate for President of the United States who speaks of the “audacity of hope.” He stated that, for the last 49 years, it is the people of Cuba who have been truly audacious in their hope. Cuba, he argued, has bravely represented, at times alone and in the face of determined opposition by the most powerful military and economic empire the world has ever known, the possibility of a different kind of world. He noted the growth of powerful social movements throughout the Americas which are now demonstrating that the hope Cuba has represented is not limited to one country or one model.

He congratulated the people of Cuba for calmly and successfully carrying out the election of a new President and Council of State, and on its recent signing of both of the world’s major human rights treaties, the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. He observed, however, that no country is perfect, and expressed his hope that delegates would engage in conference discussions in a spirit of honesty and solidarity, openly discussing both victories and challenges.

### **Panel Presentations**

#### **A. Perspectives on Labor Rights in the New Ecuadorian Constitution**

**Sabino Hernández of Ecuador**

**(by Iris Gomez)**

Dr. Hernández, attorney, law professor, and author of *La Tercerización* (Guayaquil 2006), discussed the process of and prospects for change with regard to constitutional reforms pending in Ecuador and due to be completed in May of 2008. This process began in April of 2007, when newly elected President Rafael Correa won a national referendum or plebiscite to convoke a constituent assembly that would rewrite Ecuador’s Constitution, which had been amended over twenty times before, the last time in 1998. Last September (2007), Correa’s progressive Alianza País party went on to secure a majority of the votes necessary to control the composition of the 130-member assembly that was convened to rewrite the nation’s Constitution. With a mandate to complete its work within a six-month period, the constituent assembly has engaged in a reform process that portends profound changes, according to Dr. Hernández.

The new Constitution, he explained, must incorporate a fundamentally social context that demands respect not only for sovereignty but for the rights of the people, including of workers. Ten work groups have been engaged in addressing such topics as the organization of governmental power and the exercise of rights by organizations as well as to consider new terminology needed to ensure a more participatory process. Dr. Hernández elaborated on many specific elements under consideration for the new Constitution but emphasized that above all, the challenge is to ensure that the Constitution works to protect rights not only in theory but in practice. For example, he described some of the disjunctions that have existed between practices like outsourcing and subcontracting and the formal labor code and used these to point out the necessity of ensuring that the new Constitution addresses the panoply of work relations and not just employment “contracts.” Dr. Hernández also provided an overview of some of Ecuador’s current economic conditions, contextualizing class tensions that may have fueled some of the public desire to reform Ecuador’s Constitution.

## **B. The Role of Undocumented Workers in the United States Economy Presentation and Summary by Lisa Brodyaga of the United States**

Life for the undocumented in the United States has never been easy. Their historic role has been to provide cheap, exploitable, labor. Until recently, their presence has therefore been tolerated, and even encouraged, by many elements of our society, including what could be called “economic conservatives,” (the business community), and much of the federal government, even the Immigration and Naturalization Service (INS, now called Immigration and Customs Enforcement or ICE). In the 1960s and 1970s, most undocumented workers were Mexicans, who often moved freely back and forth across the Rio Grande. In the late 1970s and 1980s, they were joined by waves of Central Americans, many of whom faced almost certain death if deported, and as a result, were exceptionally vulnerable. Not surprisingly, many employers became spoiled by the apparently limitless degree to which the Central Americans tolerated abuse.

On the other hand, many North Americans of good will were appalled by our Government’s policies, both our support of repressive regimes around the world, and in their treatment of the refugees, and organized to defend them. Some North Americans even went to prison, out of principle, for their work defending them. Eventually, Congress bowed to public pressure, and gave some relief to Central Americans. Once they came out of the shadows, unscrupulous employers who were addicted to cheap, exploitable labor sought new sources. They turned to legal immigrants.

In 1996, the economic conservatives passed legislation making even long-term legal immigrants deportable for major, and many minor, offenses. Many who had been legal residents for decades, having grown up, gone to school, married, and raised a family in the United States, suddenly faced mandatory deportation. Obviously, those who have lived in the U.S. most of their lives, who have deep family ties in the U.S., and are deported to Mexico or other near-by countries, are likely to return. But on return, they become fugitives. They face federal criminal prosecution, and sentences of many years, if caught. So they became the “new Central Americans” - more afraid of deportation than virtually any form of exploitation or abuse. They also lost their rights to the Social Security pensions and Medicare benefits that they have paid for their whole lives. Recently, with the growing influence of the “social conservatives,” (inflamed

by talk radio, and talk TV, such as Lou Dobbs of CNN), ICE has undertaken a major enforcement drive, doubling or tripling the number of deportees.

Now, the “economic conservatives” are finding themselves without the cheap labor on which so many depend, and which keeps our grocery and other prices low, in comparison to, for example, Japan, and most European countries. Worse, hate crimes against all Hispanics - legal or otherwise - are growing rapidly.

**C. The Judicial Construction of Contingent Work in the Spanish State and Its Effects**  
**Videl Aragonés Chicharro of Spain**  
**(by Retu Singla)**

For the past 25 years Spain has witnessed a movement to attack labor. The labor movement has failed to defend labor rights. This has created a situation in which there exists a permanent attack on labor. A week ago in Spain during the general elections two candidates were asked about how to help the labor movement. The conservative right wing candidate responded that we must give superior attention to the rigidity of labor markets; while the social democrat responded right now there are difficulties with the labor market. But, neither of these are the cause of labor problems in Spain. The problem with labor in Spain is the reformation of labor law. There is now a constant attack on labor rights.

What is Spain's Labor Law? Does labor law cover workers in temporary companies and that are being outsourced? The new economic order has a variety of methods by which salaries are paid. Ninety percent of workers in Spain have long term employment contracts. Previous, to the global economic pressures of today, there were only two different types of employment contracts. The 1994 Labor law reform, in response to capitalist pressure, developed fourteen different contracts. In doing this the government has eliminated temporary contracts and worker training contracts. In 1997 Spain eliminated all employment contracts including temporary contracts so that temporary workers could be fired without cause. New criminal laws have been enacted which make short term temporary employment contracts a crime. But when it comes to outsourcing to a third party out of the country, temporary contracts are upheld.

The Costs of This Attack. In 1980, ninety percent of the Spanish workforce was a part of a long term employment contract and enjoyed higher salaries. In 1985, eighty five percent of the workforce enjoyed the protections of a long term contract. By 2005, ninety percent of the workforce are now short term employees and suffer under much lower salaries. One out of every three workers in Spain have part time jobs or work on a temporary basis. Women and young people work for longer periods in part time or short term work. Today, workers are being fired and not compensated. The number of lay offs is increasing. Even those workers who enjoy a high income can be fired without cause today.

The Labor Administration is not defending the rights of workers. There are higher lay-offs today and less guarantees. In fact, only three percent of layoffs presented before the Labor Authority are rejected in favor of the worker. This means, that employers know that they have full authority to lay off employees without repercussions. The Labor Administration has also created wide spread exclusions of certain categories of workers from labor relations. For example, immigrants, drivers and researchers at Universities are excluded.

**C. Not One Step Back: Regarding the Defense of Labor Rights**  
**Miguel Fiad, Mario A. Luna, Esteban Cabrini of Argentina**  
**(by Retu Singla)**

Argentina operates under a capitalist system of production. In the speakers' viewpoint, any class struggle would require defending against a capitalist economic model. Trade unionists must play a front line role in defending the working class within this capitalist framework, they argued. However, it is the apparent that today's trade union movement is failing to affirmatively move to end the capitalist system. While it may be the fault of trade unions to fail to act, this presentation did not focus on faulting the trade unionists. Trade unions still protect and provide the principle rights of workers in Argentina.

As lawyers, they stated, we know that "labor law is the unwanted son of the legal family." It comes from the State. The State that benefits from capitalism creates the legal order from which labor law is developed as "something that grew from a plant that had already grown." Thus there is a system in which labor law tries to make equal that which is illegal and that which benefits capitalism.

Workers are constantly in labor crisis due to the "fantastical" values of the stock markets of the world which have little real impact on the daily lives of the working class. When financial global crises come to a head, there is a great crisis in the trade union movement. This leads trade unions to react. However rather than look into the consequences and causes of the failures of financial capital, the State looks into ending the Union's right to strike.

**D. Collective Bargaining: Representation of Workers and Unions**  
**Jose Luis Contreras of Mexico**  
**President of the Association of Latin American Lawyers**  
**(by Sarah Ihmoud)**

**"There is no trade union without a strong collective contract. There is no collective contract without union organization. There is no organization without struggle."**

In Mexico, neoliberalism has (1) promoted low-cost wages, (2) eliminated stability in the workplace in favor of employer flexibility, (3) eroded social security systems in favor of capital, and (4) ensured that there is no right to housing or other special rights once guaranteed to workers. Neoliberalism pressures employers to lower the cost of production, eliminating workers' rights. By destabilizing work relationships, a power imbalance is created, weakening the ability for workers to organize and unionize. A common strategy employed in the neoliberal context is to dismantle, corrupt, control and interfere with the internal workings of unions and to interfere with workers' rights to mutual aid. However, even in the midst of neoliberalism, Mexican workers are fighting for the recovery of the rights of which they were once proud.

Contreras identifies three fundamental workers' rights that cannot be separated: (1) right to a trade union, (2) right to collective negotiations and (3) right to strike. Sr. Contreras stresses



the concept of the “collective contract,” which he states is a fundamental aspect of labor rights and the essence of labor law because through it is the only way to change living and working conditions. Collective bargaining plays a critical role in empowering workers to transform their own working conditions. In order to improve salaries, benefits and working conditions in every workplace and to improve regulations within the nation, policy-makers and unions need a broad and true picture of the collective contract and a strategy for how to work with it.

According to Contreras, as the international banks gain more power, private organizations in general gain power. This has contributed to a decline in wages, which is also tied to the degradation of other social conditions, such as the human right to housing. In effect, he maintains that neoliberal economic policy is “rapidly dismantling all the gains that workers have fought for and won over years of struggle.”

Contreras frames the current debate in terms of how to democratize workers’ environments, transform social institutions, and elect union leadership. With respect to the role of labor lawyers, Contreras asserts that is the responsibility of lawyers to provide employees with tools to allow them to decide whether they wish to fight. Labor lawyers should contribute to the workers’ struggle, but not co-opt it. He further states that because lawyers have a strong societal role and important status, they should be advocates for workers by protecting them and helping them to organize. However, Contreras warns that lawyers should not replace workers as leaders of trade unions, but rather the goal is to make lawyers an endangered species- presumably through the education and enablement of workers to fight for themselves.

**F. The Letter of Cochabamba**  
**Jaime Nuguer of Argentina**  
**(by Sarah Ihmoud)**

One of the intents of the evolving Cochabamba Charter of the Association of Latin American Lawyers, approved December 7, 2007, is to proclaim the principles of labor relations. The Charter contains language on social security, as well as labor rights. It is not a neutral document, but rather promotes a staunchly militant advocacy of workers’ rights and calls on lawyers to participate not as spectators, but as activists in the cause.

Nuguer noted that neoliberalism has suffered recent defeats in Latin America because of improved consciousness of workers. Neoliberalism treated workers as widgets, “third objects,” with no right to be informed; however, we know that for workers to improve their conditions and rights, they must be active subjects in the workplace. This requires worker participation and an acknowledgment that workers’ rights to decent, non-violent work is a human right as defined in international human rights conventions. However, the meaningful participation of workers is not possible without a legal, organizational mechanism to achieve organization of trade unions and collective bargaining.

**G. Trade Unionism in the Face of the New Tendencies in Labor Rights**  
**Elio Valerino Santiesteban and**  
**Liviniuska Diaz Fabara of Cuba**  
**(by Tom Eagan)**

In his presentation, Sr. Valerino discussed the history and legal framework of the trade union movement in Cuba. The formal trade union movement in Cuba began many years before the revolution in 1959, and has continued to develop its role. The first guild or trade union was the tobacco rollers in Havana.

Prior to the revolution, Cuban workers had established a national trade union congress. After the revolution, that national congress continued, with the first order of business to consider whether there would be a single unified trade union organization or different trade unions. It was decided that there would be a single unified trade union organization. Since then, there have been numerous congresses, the last, the 19<sup>th</sup>, was held in 2007.

Besides trade union unity, trade union congresses function to deal with the fundamental issues of the Cuban labor movement. Historically, they have dealt with salary structures, forms of social justice, and employment social security. A very important congress was the 17<sup>th</sup> Congress. That was held after the collapse of the Soviet Union. At that time, the gross national product of the country also collapsed. Factories were shut down and people were out of work.

The trade union movement and congress confronted this crisis. Through grassroots discussion and participatory democracy, the trade union movement drafted labor legislation, the purpose of which was to protect the labor movement, address job creation and security, training, economic initiatives, etc. There are still some problems, which he discussed, including new economic forms, but they are being addressed.

The trade union movement in Cuba consists of established and extensive trade union structures. Ninety-eight percent of all workers in Cuba belong to these unions. Each trade union has its own by-laws and there is no state interference in these trade unions, according to Sr. Valerino, each trade union, in its constitution, recognizes the leading role of the party.

The legal structure of the trade union movement begins with periodic congresses. Below the congress, in this legal structure are the national council, the national secretariat, then the various trade union sectors. There are 19 trade union sectors. The congress is the overall legislative body. Its primary purpose is to create unity in the trade union movement, strengthen all collective agreements and assist in labor legislation.

Sra. Diaz, in her presentation, also discussed the role of trade unions in Cuba, but devoted some of her talk to the role of collective bargaining agreements. First and foremost, from an ideological standpoint, the trade union is the bridge between the communist party and the working class. It serves to train and educate the workers concerning their rights and their leading role in society. Currently one of principal efforts of the trade union movement is to educate the workers of their legal rights under their respective collective bargaining agreements. The intended result of this would be to reduce the role of the labor lawyer in the process.

## **H. The Role of Collective Bargaining Agreements**

### **Odalys de la Caridad Morales Fundora of Cuba**

**(by Joan Hill)**

In the workplace, the trade union serves to create and enforce collective bargaining. Each economic entity has a collective bargaining agreement. Under the agreement, workers formalize

their working relationship with the enterprise. At each work center, they adopt regulations dealing with that work center, salary, and workers' health and safety.

The objective of each collective bargaining agreement is the humanization of the collective interest of the workers. As pointed out by the presenter, collective bargaining is different depending on the economic system. Obviously, there is not the same type of collective agreement in Cuba as exists under capitalism.

Collective bargaining changed considerably in 1959 after the triumph of the revolution. Since the revolution and to this day, collective bargaining in Cuba is mindful of international workers' rights and the struggle for socialism. With the changes in the economic conditions, the goals of collective bargaining must also change. For example, as a result of the special period, economic circumstances changed dramatically in Cuba. The special period refers to the period after the collapse of the Soviet Union, and its socialist trading partners.

The trade union movement had to be mindful of those changes and respond to it. Likewise, collective bargaining agreements had to change and adapt also. Recently, Cuba has entered into agreements with foreign governments and enterprises and has allowed investments of foreign enterprises in Cuba. As a result, joint ventures and the like have begun to appear in Cuba. Collective bargaining does not change under those circumstances nor does its role changes. Rather, the relationship between the trade union and the employer changes. This is spelled out in the collective agreement.



**I. How Effective is U. S. Labor Law in Protecting the Social Security of Workers in Face of Neoliberal Integration and How Could it be More Effective?  
Presentation and Summary by Dean Hubbard of the United States**

Outside the United States, the term “social security” is generally considered to encompass all of the economic, social and cultural rights protected by international law, and to fall within the broad umbrella of the state’s obligation to protect the economic well-being of the people who reside within its jurisdiction. Under international law, every individual in the world has a legal right to food, shelter, education, and to work with dignity. Hubbard argued that this fact provides the foundation for a powerful argument to interpret U.S. law consistently with this mandate.

However, in general, state and federal law in the United States do not provide a basis for asserting a claim that a government has violated a person’s rights by failing to provide for their economic needs. Most such claims have been explicitly rejected by the courts. Federal statutes merely regulate, and sometimes subsidize, market mechanisms for meeting basic human needs, but provide no recourse if these means prove inadequate. While domestic sources of law may provide bases to challenge the particular ways in which public and private entities affect individuals’ ability to meet their basic human needs, the entities’ failure to meet those needs themselves rarely gives rise to an actionable violation.

For the most part, constitutional and statutory law in the U.S. has been interpreted only to provide so-called “negative” rights, or protection from harm by the government, not a mandate for the government to affirmatively protect economic, social and cultural rights. Specifically, the Constitution of the United States, as traditionally construed, only protects individuals against injurious actions taken by the government, not against harms that result from government inaction. Although the Preamble to the Constitution declares its purpose of, *inter alia*, “promot[ing] the general Welfare,” the Supreme Court has not interpreted the federal constitution to require that either state or federal governments provide jobs, income, health care, housing, food, or education to individuals.

Many of the limitations on social security and economic human rights in the U.S. have their ideological foundation in neoliberalism, an economic philosophy favoring privatization, deregulation, secure property rights, and lower tax rates. Globalized neoliberal capitalism poses an extraordinarily difficult array of organizing obstacles, not just for workers in the so-called developing world but for workers in history’s most powerful empire. However, workers are not simply victims. They can and do succeed in turning the tables on neoliberalism. When they do so, it is often through grass roots, transnational strategies which attempt to make economic human rights law a living reality. Grass roots labor and community organizing, linked to transnational social movement networks, may provide the best route towards obtaining legal protection of the internationally recognized human rights of worker in the United States. Economic human rights law can provide critical support to the movements to which such organizing is tied. Lawyers acting in coordination with those movements can help create a climate in which organizers seeking to realize workers’ human rights can work in greater freedom and safety.

Traditionally, many groups fighting for the rights of workers in the United States have downplayed or ignored the importance of international human rights law. They have tended instead to rely on the rights provided under the U.S. federal and state constitutions and statutes. In recent years, however, U.S. courts, including the Supreme Court, have increasingly cited international human rights standards in their decisions regarding, for example, the death penalty

for juveniles, women's rights, and the accountability of U.S. companies for wrongful conduct overseas.

One particularly promising trend is the emerging use by workers' rights advocates of international forums to publicize and organize against violations of the economic human rights of workers in the U.S. For example, in 2005, a public sector local of the progressive independent union UE collaborated with the International Commission for Labor Rights to investigate and publicize North Carolina's denial of the right to organize to its largely African-American public sector workforce. On April 3, 2007, the ILO ruled in favor of the UE, specifically calling on the U.S. government "to promote the establishment of a collective bargaining framework in North Carolina...and to take steps aimed at bringing the state legislation, in particular through the repeal of [the statute which bars public sector collective bargaining], into conformity with the freedom of association principles . . . ." Under the right circumstances, international political pressure in support of a grass roots workers' rights mobilization can have a powerful impact on struggles to interpret domestic laws consistent with the mandates of international human rights laws.

Hubbard argued that the rule of law does not act as a check upon arbitrary power in defense of the rights of ordinary people automatically or in the abstract. In most cases, it can serve this function only when legal work arises from and complements, rather than attempting to substitute for, grass roots organizing for broad-based social change. When legal advocates perform this function, they help create the conditions under which the rhetoric of economic human rights frames the transformative work which will bring about a Socially Aware Global Economy.

**J. The Protection of Workers Rights under the Family and Medical Leave Act: Labor's Response to the Attacks of the Bush Administration  
Presentation and Summary by Joan Hill of the United States**

In the United States, most low-wage workers cannot take any kind of leave from their work (sick, vacation, or personal). They cannot afford to as employers do not offer any type of paid time-off. It is argued that many workers are just one sick child away from being terminated from their job.

This presentation offered insight, for comparative purposes, on the set of entitlements and rights afforded workers in the United States, where historically, issues of leave have been part of the collective bargaining process.

The Family and Medical Leave Act (FMLA), passed in 1993, gave workers protection in the form of unpaid leave if they had to take time away from work to care for themselves or a family member, such as a spouse, a parent or child, with a serious health condition. The act also affords parents of a new born child or adopted child a guaranteed unpaid leave to bond with the child and/or recover from childbirth.

It was noted by the speaker that the FMLA has been at the center of litigation on behalf of individual employees and union members. There are many court decisions interpreting the regulations that impact an employee's right to leave, and the employer's responsibilities. The

Department of Labor, under the Bush Administration, has threatened to revise the law, making it harder for workers to take advantage of the law.

Last year, the U.S. Department of Labor sought comments regarding a wide range of topics and raised numerous questions regarding the regulations as enacted. Over 15,000 comments were received, including comprehensive filings by international unions, as well as individual workers. Many companies as well as organizations representing the interests of employers responded.

As the result of the comments received, the Department of Labor announced in February that it would consider changes to the regulations; the proposals will make it more difficult for employees to access family and medical leave. For example, persons with chronic or long-term medical conditions will have to see a doctor at least twice a year. For Cubans or others living in countries with universal or socialized medicine, this may not be that big of an issue; However, in the United States, where some 50 million people do not have access to affordable or quality health care, this is an added burden to workers and the family members they care for.

In response, many progressive organizations and labor unions fear that the changes would discourage employees from exercising the right to take family and medical leave. The labor department seeks to reverse the protections for working families at the worst possible time. Recessive economic conditions, higher gas prices, housing foreclosures, the cost of education, and the cost of war have families in the United States struggling.

It was asserted that education will be the key to stopping these regressive attacks on workers. Maybe we are only “going through the motions” and any regulatory changes will be temporary until a Democratic president is elected in November. Labor will have to engage workers in the debate. The voice must be loud and clear that workers cannot carry this additional burden. And that is our bigger challenge, in the labor movement, to elect a Democrat and shift the balance of power away from corporations and back to workers.



Gurdeep Dhaliwal and Heidi Siegfried

Photo by Peter McKee

### **K. The Right to Housing and Shelter in the United States Presentation and Summary by Heidi Siegfried of the United States**

Heidi Siegfried presented a paper on how well New York State meets its legal obligations to provide housing security to the needy. She reminded participants that the provision of housing in the United State is largely through the private housing market of both homeownership and monthly rental of housing to tenants by landlords who are seeking to maximize a profit from the buildings or housing units they own. Low income people quite often lack the access to capital to become homeowners, so they are largely renters.

The history of social welfare law in New York State was reviewed, showing that until the early 20<sup>th</sup> century law made localities responsible for caring for the poor, at first through congregate care -- “poor houses” and houses of industry, and later through temporary assistance to short term cases of need as an alternative to institutionalization. Following the Great Depression, the Constitutional Convention of 1938 adopted Article XVII which made the aid, care, and support of the needy a public concern which the state “shall” provide, but “in such manner” and “by such means” as the legislature determines.

The legislature has set such meager housing allowances for the poor that a family of three in New York City is only entitled to \$400 per month, which does not enable them to obtain housing in the private market where the fair market rent for a two bedroom apartment is \$1189. If the family is being evicted in housing court, they are entitled to \$850 per month, which also falls short of the fair market rent. In December, after 20 years of litigation, a judge upheld these shelter allowances. Families with a family member who is HIV Positive or who have entered the New York City Shelter system (which costs the City \$36,000 a year) are entitled to shelter schemes that pay 90% or more of fair market rent.

In addition to inadequate entitlements, there is a limited supply of public housing and federal Section 8 program vouchers, which allow a family to pay 30% or less of their income on housing. Also, some of the housing stock in New York City is regulated.

She reported that without a right to housing security, New York City sheltered 8,934 families and 6,977 single individuals for a total of 34,728 individuals on the night before she left for Cuba. In addition 3,306 unsheltered individuals were counted at NYC's annual street homeless count in February.

She concluded that only through collective struggle and solidarity with allies in other sectors can we achieve a right to housing for all. She described the success of AIDS Coalition to Unleash Power in raising the shelter allowance and the efforts of Picture the Homeless to insist on both the visibility of homeless people and the visibility of vacant housing units.

#### **L. Fairness for the Unemployed: Obtaining Unemployment Benefits Presentation and Summary by Marshall H. Tanick of the United States**

One important, but vanishing right of employees in the United States concerns entitlement to unemployment compensation benefits. The system, which is financed by employer taxes paid to the Federal government, is administered by oversight agencies in each state. Although funded by employers, workers indirectly finance the system because the money used to pay the benefits could otherwise be available to them as wages or other benefits. Although the process differs from state-to-state, the general parameters are similar.

Basically, those who have worked for a sufficient time period for one or more employers, are entitled to receive unemployment benefits while they are unemployed for a period of up to 26 weeks. The amount of benefits is scaled to the employee's salary and varies from state-to-state. Payments are intended to tide employees over during a time of joblessness when they have no other source of income.

Ordinarily, employees receive unemployment compensation benefits when they are let go for economic reasons or are terminated without cause. However, employees who voluntarily resign, without good cause attributable to the employer, or who are terminated because of serious wrongdoing, may lose the right to unemployment benefits.

There have been disturbing tendencies around the country restricting the rights of employees who receive unemployment benefits. A constellation of factors underlie this trend, including restrictive legislation that makes it harder for employees to qualify for unemployment benefits and court rulings that facilitate employers challenging applicants for benefits, which have led to an increase in the number of employers who contest claims for unemployment benefits.

In Minnesota, the statistics are telling. Figures in other state probably are similar. In Minnesota, the number of applicants for unemployment benefits has increased by about one-third over the past decade, from slightly over 200,000 to close to 300,000 annually, an increase from about 10% of the workforce to approximately 15% drawing benefits at one time or another during the course of a year.



The number of employers who challenge unemployment benefits for their employees has risen from about 20% to 26%, and employers have been more successful when they contest benefits, winning about 55% of the time in recent years, compared to around 50% a few years ago. Moreover, employees who appeal adverse determinations through the court systems prevail in fewer than 10% of the cases.

All of these developments reflect the difficulties that employees face in obtaining unemployment compensation benefits.

Here are some ways that employees can bring about constructive change:

- Labor unions frequently eschew helping their members who are seeking unemployment benefits, feeling that it is outside the scope of their powers bargaining representative. They should be more diligent in helping employees secure unemployment benefits.
- Many employees are unaware of their rights surrounding unemployment compensation benefits. Employers should be required to post conspicuously in the workplace that notices concerning the rights of employees regarding unemployment compensation.
- Laws should be enacted to broaden the rights of employees who receive unemployment compensation benefits and extend the time period, especially in depressed economic times, benefits are payable.
- Administrative officials, hearing officers who decide unemployment compensation cases and judges who hear appeals need to be more sensitive and sympathetic to the rights of the unemployed. More diversity is needed and sought in the appointment of personnel to these important positions.

None of these suggestions will overcome the problems that jobless individuals face in securing unemployment compensation benefits. But, individually and collectively, they can help reverse the troubling trends in the unemployment compensation system.



Kate Young

Photo by Peter McKee

## **M. Employer Unfair Labor Practices: A Response to Union Organizing in Canada Presentation and Summary by Kate Young of Canada**

Employers in the Canadian Province of British Columbia have recently, with the assistance of dedicated anti-union lawyers and consultants, engaged in well planned and highly effective union busting techniques. These activities have been legitimized by legislative amendments designed to facilitate and legalize political style anti-union campaigns.

Prior to 2002, employers were not permitted to participate or interfere with the selection of the trade union. Section 9 of the Labor Code continues to prohibit “the use of force, threats, fear or compulsion for the purpose of controlling or influencing conduct.” However, Section 8 now protects an employer expressing “his or her views” regarding the trade union and certification. The Union movement has been successful in incorporating limitations to the permissive language found in the “free speech” provision of the Code. The employer’s view must be genuinely held. A bulletin prepared by the employer and distributed to employees asking employees to attend union meetings and demanding answers to questions is not an expression of a view. In order for the expression of a view to be protected, the employer must acknowledge that it expressed the view. Conduct which is not an expression of a view, is not protected by Section 8.

A company’s surveillance of employees interacting with union organizers would result in a reasonable employee feeling intimidated and this intimidation would have “the reasonable effect of inducing employees to refrain from interacting with organizers and becoming a member of the Union.” Statements made during an organizing drive to the effect that the business may close down if the union is certified could be threatening and coercive, even if this is a genuinely held belief of the employer. The Board continues to recognize that workers are dependent for their livelihood on the employers, are vulnerable at the point of seeking union protection, and that employers are uniquely situated to influence the views of employees. The inquiry by the employer about union support is a violation of the Code. It is intimidating for an employer to directly ask employees what they think about the union drive, whether they support it, and it is coercive for the employer to provide employees with instructions on how to revoke or to provide revocation forms for them to sign. Statements made during closed door or captive audience meetings may result in an apprehension of a threat.

Anti-union campaigns have become more aggressive in recent years, fueled by legislative amendments thinly disguised as “free speech” protection for employers. The Canadian trade union movement has been vigilant and effective in responding to the new union busting activities of employers. Leafleting and direct communications by unions are designed to respond to the anti-union campaigns advanced by employers, and with the assistance of the Labour Relations Board, some limits have been placed upon the broad protections now given to employers to advance their ant-union agenda.

**N. Efforts in California to Protect Contracted and Subcontracted  
Workers in the Garment Industry  
Presentation and Summary by Gurdeep Dhaliwal of the United States**

Los Angeles is known for its fashion and style when it comes to clothing but the dark side to this status is that Los Angeles is also the center of some of the worst labor abuses in the garment industry. Because fashion can have such a quick turn around in Los Angeles, many sweatshop factories exist to feed this revolving door. For decades these sweatshops have produced both labor abuses, and health and safety violations.

To fight against the labor abuses a 1999 bill, AB 633, extended the liability for wage and hour abuses from employers to “guarantors”. No longer could some employers avoid liability by blaming contractors. Further, the law required registration by those involved in the garment industry, and also allowed for joint liability and for successor liability.

To further hold employers accountable, various worker and legal organizations worked together on a campaign against Forever 21, one of the larger exploiters of cheap labor. The campaign included both boycotts and litigation.

Under this background, the current garment industry has seen many victories but has a long way to go. Having worked at the Division of Labor Standards Enforcement (“DLSE”) in Los Angeles through a self help clinic that aids workers in filing complicated wage claims, I have experienced first hand some of the abuses and also some of the positive outcomes of the fight against labor abuses in this industry. Of all the wage claims that the clinic has seen, the most frequent group of workers seen at the clinic are garment workers, who account for thirty percent of workers helped. A garment worker’s claim averages about \$22,000.

Some of the positives that have come from efforts to improve the garment industry include greater education among workers. I have seen that most workers are aware of their rights and most workers also know to keep labels, time cards and pay stubs. Most workers are better able to present their case by keeping all this evidence. Second, many workers come in groups and support each other by serving as witnesses. This solidarity goes a long way for both their cases and for worker morale.

Many of the problems that still persist center around employers’ and contractors’ devious efforts to avoid liability. Some workers are not able to get the last name of their supervisors and are unable to list the supervisor on the wage claim. Other employers have turned off lights and told workers to stand quietly as investigators pound on the door outside. Some employers will close down the factory and just leave workers stranded without paying final wages.

Impressive efforts are being made to combat abuse in Los Angeles’ garment industry, but the struggle is on going.

**O. The Enterprise and Labor Relations in Cuba**  
**Cristobal Gonzalez Izquierdo of Cuba**  
**(by Brenda Cochrane and Pam Pitt)**

The Cuban Ministry of Labor and Social Security considers that every citizen is capable of working. Sra. Gonzales argued that this is true regardless of race, national origin or marital status. No man or woman is considered redundant. Working is the basis of social security. The law provides for equal wages. Work priorities are established for men or women, people with disabilities and people being released from penitentiaries. There is also an employment policy which provides for jobs for recent graduates. Companies are expected to comply with these guidelines.

There was reference to precarious jobs. (We found this term to be interesting and there was a lively discussion of what it meant at the question and answer session.) Work is found for employees where the business is closing down or going through a reduction in force. There are jobs for all those who are capable of working. All possibilities are considered for workers whose jobs are gone. If necessary, they can be sent to study or for additional training. This includes representatives of trade unions and management.

Labor relations are formalized through labor contracts which are full time, part time or training contracts. Workers can take medical leave or study leave. There is also a system of discipline. There is a written record for each worker. The Labor record is updated by management. It shows performance assessment, training, salaries and raises. The worker can see the record at any time he or she requests. There is an emphasis on discipline, control and the latest technology with every worker participating, resulting in solidarity, according to the speaker.

**P. Management of Work in Cuba**  
**Francisco Travieso Damas of Cuba**  
**(by Brenda Cochrane and Pam Pitt)**

Labor and social security are treated by the government as one concern and come under one agency. The Institute of Labor Relations and Studies, Institute of Labor Rights and Studies, and a Central Workers Trade Union, all under the Ministry of Labor and Social Security, oversee trade unions and the treatment of human and financial resources. The Ministry manages everything that has to do with the training and raises of workers aiming toward full employment. (Countries that have less than 3% unemployment are considered to have full employment.) There are nineteen national trade unions in the Central Trade Union Organization.

In Cuba there is social welfare for groups that need the help of society. There is state inspection of labor through the national office. The national office assesses the working conditions and discipline for the country. The Ministry of Labor and Social Security settles any conflicts under working contracts. This includes granting pensions and maternity leave. Women can retire at age 55 and men can retire at age 60. It is mandatory for women to take pregnancy leave starting one month before childbirth. They are paid for leave for one year. After the child is three months old, they can request 60% of salary until the child is 1 year old. This is available to either the father or mother. The same is available for adopted children.

**Q. Protection, Safety and Health at Work**  
**Esther Marquez, Director of Safety and Health at Work of Cuba**  
**(by Brenda Cochrane and Pam Pitt)**

Full employment is the cornerstone of Cuba and the social security of its workers, according to Sra. Marquez. There is a comprehensive program for workers' health and security, including preventing work injuries. The laws protect both labor and the environment. Unions play a key role in the investigation of "professional diseases." Repetitive stress injury and stress are considered professional diseases. Women, she argued, are provided equal opportunities. Disabled workers must be granted accommodation. If an individual is unable to work in one job, he or she is given another job. This also includes the issue of AIDS in the workplace. There are training courses for people with precarious jobs.

**R. Challenges and Perspective on Social Security**  
**Esther Criollo Hidalgo of Cuba**  
**(by Joan Hill)**

Sra. Griollo argued that the the Cuban Constitution guarantees the social security of citizens, based upon a socialist ideology. Humans are the focus of all – to achieve a better quality of life. In Cuba, the Constitution guarantees free health care, education, housing and food. Social security is not looked at economically but socially, based upon the needs of the people.

There is a challenge for the social security system raised by the question of “aging” in Cuba. It is necessary, according to the speaker, to address issues of the aging population adequately. For example, recently the government looked at the regulations regarding retirement age and had to determine if there needed to be change, by increasing the age for retirement (currently set at 55 for women and 60 for men).<sup>2</sup>

There are also gender approaches to social security in addressing the question of single parenting. Efforts have been taken by the government to look at why there were single mothers with children, why she was in the situation of single parenting and determining whether there were ways to change the situation, by offering education, work, day care, etc.

Issues for the disabled have also been addressed, recognizing that disabled individuals can work and participate in certain jobs. There has been a push for students to study and work, and the country has used social workers to survey families and determine if the government can better assist the family and customize a plan for the household.

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<sup>2</sup> This was questioned in an earlier delegation and it was explained at that time that women are recognized for their extra work in and around the home and therefore are “rewarded” with the opportunity to retire earlier.

**S. Labor Justice in Cuba**  
**Nancy Morales Gonzalez of Cuba**  
**(by Joan Hill)**

This presentation focused on the system of dispute resolution in Cuba called the Grass Roots Organ of Labor Justice (OLJB). These were created in 1976 in order to solve conflicts in the workplace quickly. When a worker claims that his or her rights have been denied, the matter is addressed through the OLJB, and then through the courts on the municipal levels. There are 169 municipal courts within the 14 provinces which have jurisdiction over labor claims.

The OLJB can be used to address both issues of the competency of the worker and violations of employment rights. Demotions and layoffs can also be challenged in the OLJB. Decisions are issued within 18 days. If a hearing is necessary in the municipal court, it must be scheduled within 24 days. Claimants do not have to have a lawyer in municipal court, but increasingly lawyers are being utilized.

**T. Role of the Labor Lawyer in Cuba**  
**Jose Julio Carbonell Garcia of Cuba**  
**(by Joan Hill)**

All lawyers in Cuba are members of the National Union of Cuban Jurists (UNJC). Within the association, lawyers are classified within scientific fields or areas of practice. This was questioned in an earlier delegation and it was explained at that time that women are recognized for their extra work in and around the home and therefore a “rewarded” with the opportunity to retire earlier.

The first lawyers’ club was established in 1831 in the province of Camagüey. In 1963, a new form of legal practice was established called the bufete, or *bufetes colectivos*, initiated by the National Association of Bufetes Colectivos. Ultimately, in 1984, pursuant to Law No. 81, legal effect was given to the bufete or law office, creating the current structure of national system of collective law firms. These firms are based on an economic system of financing, collecting fees for cases and consulting services.

About 10% of the population has used the services of these legal collectives. There are over 4000 workers employed in this system, almost 2000 lawyers, plus technicians and administrative support.

It is not required to have lawyers to pursue labor claims. Claimants can use family members, another union member, any person selected. Lawyers have the right to refuse to represent claimants. The CTC has also played a role in specializing the firms in labor practice. Labor lawyers are contributing to the legislative process as well, challenging laws in the court system, which the Cubans view as part of the process of perfecting the legislation.



**Ricardo Alarcon de Quesada, President of the Cuban National Assembly briefs delegates on the latest developments in the case of the Cuban 5** Photo by Peter McKee





From Left to Right: Elio Valerino, Alfredo Almenado, Salvador Valdez (General Secretary), Dean Hubbard, Raymundo Navaro, Alarea del Carmen Machado. Second Row: Ernesto Freigne  
Photo by Joan Hill

### III. Interchange with CTC

The delegation met with the national officers of the CTC, as well as secretariats from some of the provinces. The current General Secretary of the CTC, Salvador Valdez, addressed the delegation, giving an historical perspective of the work of the CTC and how it has responded to widespread change, especially since the early 1990s. Changes have had to be made to improve the system in the face of structural changes in the economy. The CTC has responded in a way to both resist the effect of the blockade and lead in the development of new labor relations in Cuba. The CTC has responded to changes resulting from the development of tourism, science, biotechnology, and agriculture. For example, in the sugar mills, production has been reduced in recent years due to a global decline in the price of sugar, which has resulted in a decrease of 100,000 workers in this sector. The workers impacted by the change in this sector have been part of an ongoing retraining process. The delegates were also updated on the efforts of the CTC to address changes in the labor code, particularly in the area of salaries, and most recently, in the context of the double currency, the national currency (“moneda nacional” or “pesos”) and the convertible peso, or CUC.

The secretariat described the relationship between salary and cost of living. Currently the fixed minimum salary is set at 225 pesos per month. This is in addition to a basic food basket (a monthly subsidized food allotment), subsidized transportation and housing, and free education and health care. In order to increase salaries without creating inflation, Cuba needs to revalue the *moneda nacional* to make it closer to the equivalent in value to the CUC (currently the CUC is worth about 25 times the amount of one peso).

The Secretary General discussed the five classifications or scales of salaries for workers, service employees, technicians, management and leaders. Salary scales are divided into 22



groups. The minimum is 225 pesos per month; the top salary for leaders is 750 pesos per month. Workers are also placed into four groups within the salary scale, and move up in the group based upon seniority. Workers can increase their salary by 30 to 40 percent as they move through the group. In addition, bonuses are available based on meeting both individual and collective productivity goals, often paid in convertible currency, which can effectively double the monthly salary.

One of the main priorities of the CTC is to train trade union leaders. There is a system of schools in the country, including the national trade union school *Lazaro Peña* in Havana. The objective of the schools is to train the over 5100 professional trade union officers across the country, employed directly by the CTC, and over 400,000 leaders who are rank and file trade unionists. After the 19<sup>th</sup> Congress (in September 2006) the CTC decided to revise their program or syllabus of study. Education also takes place through newspapers, where union leaders are given information about regulations and rules. Cultural and political education with younger trade unionists, or “cadres” studying in the university courses also takes place, as part of the development of their trade union skills.

In addition to representing the direct interests of the workers in socialist Cuba, the CTC has the responsibility to increase workers’ productivity and efficiency. The idea is that in a workers’ state, in which the benefits of production are shared by every member of society, workers have a direct stake in the productivity of their enterprises and the economy as a whole. A resolution passed by the 19<sup>th</sup> Congress required the CTC to teach skills to workers. Classrooms have been created in work centers as part of the process of implementing this resolution. Each worker collective determines the needs for individual training. Workers also have the opportunity to take University courses. Through Decree 91, workers without a college degree can study while working to earn their college degree. Workers are awarded by increases in salary after they take classes. Workers also have the opportunity to have additional training to upgrade their technical skills or learn new equipment, and the union makes sure that workers receive the upgrade in their job after completing the skill enhancement. Much of this training takes place during off seasons in particular sectors. A number of regulations address training for workers. The Secretary General of the CTC sees training as an investment in the development of each of the workers in the various sectors of society. Each ministry responsible for those sectors has a budget for training.

A question was posed from the delegation about work for the disabled. Special legislation has been passed for the employment of disabled persons. There are 147 special workshops across Cuba where special teachers work with the disabled. There is also home-based education to prepare disabled persons to join the broader society. New construction is required to consider and resolve architectural barriers.

The CTC recently responded to legislative proposals that it believed would not benefit workers, including an income tax, and proposed a delay in the proposed increase in the retirement age. Currently, 16 percent of the population is over sixty and the growth rate will be negative in 10 to 12 years. The retirement age for women is 55 and for men it is 60. With life expectancy of 78 years for females and 77 for males, the average woman will have 23 years of retirement and the average man 17 years. The Secretary General argued that ultimately, increasing the retirement age will allow workers to remain active, and will meet the need for active workers in an ageing society.

#### IV. Field Research



Director Maria Isabel Castillo with staff at school

Photo by Peter McKee

##### **A. Escuela Federico Engels (by Brian Roberts and Shridevi Madhure)**

On the first site visit of our field research, the U.S. delegation descended upon the Frederick Engels Elementary School in Sancti Spiritus. Students greeted the delegation in the courtyard of the school. After the students conducted the morning Cuban flag-raising ceremony and a tribute to the Cuban Five, they treated the delegation to a variety of cultural performances including modern dance, dramatic readings, and musical presentations.

Following the performances, the delegation met in the school library with the Principal and local members of the Trade Union of Education. The principal explained that the school has six-hundred and sixty-nine (669) students – mostly from the surrounding neighborhoods and the local province. Students range from preschool to 6<sup>th</sup> grade. The typical school day runs from 7:00am – 7:00pm. After the morning ceremony and exercises, students receive classroom instruction from 8:00am – 12:00pm, break for lunch, with more classroom instruction from 2:30pm – 4:20pm. The school makes an effort to limit class size to no more than twenty (20) students to allow teachers to attend to the learning needs of all pupils. The school also receives support from the National Center for Diagnostics and Orientation, which provides academic specialists, psychologists, individual academic assessments and assistance with students with special needs.

Students also participate in sports programs and receive fine arts instruction in music, theatre, dance, and plastic arts. In addition to classroom instruction, students watch educational

programs on a television and video. The school also has two computer labs featuring eighteen computers with educational software on a range of academic subjects and learning exercises. The school sponsors an after school program from 4:20pm – 7:00pm for working parents. Parents are an integral part of school planning and academic support, according the Principal. Parents' meetings are held throughout the school year to allow parents to voice concerns and make recommendations to improve academic performance.

According to local members of the Educators Union, the union membership meets once a month to address members' concerns. They also have an executive committee. There are over eighty (80) teachers and support staff. The union works on issues such as collective contract, teacher categories, bonuses, teacher awards, and vacation time. There is a national general policy for dispute resolution as well as internal regulations to address individual concerns that union members have regarding work performance issues and working conditions. Teacher salaries are based on their educational level. Teachers are encouraged and supported in attaining masters degrees and PhDs. At the end of the school term, teachers are assessed and can receive bonuses based on student performance and evaluations from parents and students.



### **Pledge to the Flag**

**Tres listas azules (Three blue stripes)  
Y dos listas blancas (And two white stripes)  
Un triangulo rojo (A red triangle)  
Y la estrella de plata (And the silver star)  
Asi es mi bandera (This is my flag)  
De Cuba mi patria (From Cuba, my homeland)  
Esa es la que quiero (That's the one I love)  
Con toda mi alma (With all my soul)**



**Hospital Provincial de Rehabilitación “Dr. Faustino Pérez Hernández”**  
(By Peter McKee and Mark Schneider)

On Thursday morning, March 20, 2008 our group visited the Hospital Provincial de Rehabilitación “Dr. Faustino Pérez Hernández” in Sancti Spiritus. The hospital is named after Dr. Faustino Pérez, a revolutionary compatriot of Fidel Castro and Che Guevara, who was part of the landing in Cuba with the original 82 revolutionaries aboard the Granma yacht in 1956.

Our group met with Dr. José Alberto Luna, the hospital director, who led our tour. Dr. Luna has 14 years of medical education and training. We were joined by Idel Rodriguez, the head of the CTC (Cuban worker’s union) and Dunia, the head nurse of the hospital. This is the only specialized physical and neurological rehabilitation hospital outside of Havana. The hospital is operated under the auspices of the national Ministry of Health.

Dr. Luna explained that the hospital provides three distinct levels of care: primary clinical care, secondary care in the hospital, and tertiary specialized care. Care is provided in both traditional medical approaches through traditional physical therapy and medications and via naturopathic approaches. While the focus of care is on the medical needs of Cubans, the hospital does have patients from other countries around the world, including patients from Mexico, Spain, and England. The hospital cooperates and integrates their programs with other Latin American governments.

The hospital is both a treating and teaching hospital. They have regular medical students, graduate students, post graduate students, and technical students. To serve the entire country, the hospital coordinates 20 centers throughout Cuba via video connections, including rural areas. In addition, there are 22 rehabilitation areas in cities throughout Cuba. The hospital provides rehabilitation therapy for respiratory, cardiovascular, trauma, orthopedic, neurological, dermatologic diseases. They have 34 beds for in-patient care, 10 of which are assigned to the national MS program in which they specialize. They also can accommodate an additional 34 out-patient clients. The hospital has a staff of 101, including 14 technicians. For budgetary

purposes, the costs of care are closely watched. It costs the hospital approximately 172 pesos /\$8.00 per day to care for a single patient. The average in-patient stay per patient is 44 days. A rehabilitation consultation costs the hospital approximately 4 pesos/20 US cents.

Dr. Luna described their state-of-the-art national technical program to care for patients with Multiple Sclerosis. They also oversee the upgrading and training of rehabilitation staff in their province. The health care that this hospital provides to all its Cuban patients is free to the patient. The comprehensive habilitation approach at the hospital includes broad health intervention, recreation activities, and psychological stimulation, as needed

We toured the large physical therapy and rehabilitation pool on the grounds. Water is kept at 38 to 40 degrees Celsius. The pool is frequently used for the rehabilitation of patients with neurological, traumatic or respiratory illnesses. The hospital also has a burn center.

Dr. Luna told us that there is no waiting list for their hospital. Throughout the country, there are a total of 436 rehabilitation wards in Cuba. If a patient with a severe medical need cannot be adequately treated at one of the wards, the patient would likely be brought to this hospital in Sancti Spiritus, where they live during their care. If severe, then the patients are brought here to live and be treated

To develop a course of treatment for a new patient, the hospital first does a comprehensive consultation. Treatment is then developed based on the medical needs of the patient. Both traditional western medical approaches and naturopathic approaches are considered. Doctors come for training from other countries; currently they have doctors from Argentina and Ecuador, and a resident from Venezuela, who is currently doing research. Research results have been presented at medical conferences in the U.S. and Korea.

The hospital conducts research, including experiments in both medicine and rehab. They are researching the use of Interferon B for the treatment of MS. Other research includes the topical application of honey in the treatment of MS.

Our group members inquired about the role of unions in the hospital work setting. The union represents employees. The union seeks to mediate complaints, but it remained unclear to many of our group exactly how these mediations operated. The union representative at this hospital is a physical therapist technician. He had 6 years of schooling, including 3 years of basic education. He has a master's degree in traditional and natural medicine. He was elected by the workers to be union representative. We were told that there have been no complaints by either patients or employees against the hospital. From a US perspective of labor relations, this seemed quite incredible. The hospital is run as a "vanguard collective" (i.e. they get awards based on performance/productivity).

Cuban medical school is free and students get an allowance. Presently there are more female medical students than male. Admission to medical school is based on testing and ability.

Our members were quite interested in learning the pay rates for various employees. The hospital director, Dr. Luna, has an MD degree, with 2 specialties, a masters degree and teaching certificate. His monthly salary is 728 Cuban pesos, equal to approximately \$27.00 US. The



minimum monthly salary for a worker at the hospital is 360 pesos per month (approximately \$14.00 US). There are bonuses paid based on quality of work.

Some of the research of the hospital can be found on the internet:  
[http://scielo.sld.cu/scielo.php?script=sci\\_arttext&pid=S0864-03192007000200007](http://scielo.sld.cu/scielo.php?script=sci_arttext&pid=S0864-03192007000200007)

Because of the U.S. embargo, the hospital has to get equipment and medicine from other countries. But some medicines made in the U.S., such as Botox, is hard to get. Botox is being researched for its neurological uses in rehabilitation treatment. The embargo significantly limits this research.



Photo by Peter McKee

### **La Granja: Empresa Pecuaria Managuaco “Dos Rios”** **By Gurdeep Dhaliwal and Claire Rodriguez**

The Delegation visited a 2,600 acre cattle and milk-producing farm near Sancti Spiritus between the Tuncou and Sasa de Medio rivers on March 20, 2008. The delegation received a presentation from the farm’s director, the directors of production, human resources, economics, and the general secretary of the farm’s union. The presentation covered the farm’s management, the state of labor on the farm, and the products the farm produces. The following information is a summary of the details presented to the National Lawyers Guild Delegation.

The farm maintains twenty-five units of production; forty-eight percent of which produce milk. The remainder are breeding cattle and cattle that are transported to a slaughterhouse where they are packaged and processed for consumption. The farm produces more than 1 million liters of milk which is pasteurized at a factory. The cattle are fed on natural and seeded pastures and on sugarcane. Six percent of the farm is pasture land. The cows are taken in groups to the pasture to eat. The farm also produces small amounts of grain and vegetables. Sixty acres of the land is used to produce food for the farmers working on the farm and for the settlements near the farm.

The farm employs 205 people; approximately eighty-seven percent are male and nineteen percent are female. Of the 205 employees eighty-five percent work in production and fifteen percent are contract workers. Contract workers are not employed on a temporary basis as in the United States, but rather, are employed in non-production based tasks like technical services and administration. 152 workers are paid from revenue generated through production and receive bonuses based on above-goal levels of production. The average salary in 2007 was 571.49 pesos for technical workers. The average salary for production workers is 1,500 pesos. On average, the bonus ranges from 500 to 1000 pesos on a monthly basis.

Twenty-six percent of the workers are in technical services and are not paid from production. However, this is changing; a contract is currently being drawn up that will pay these employees from production revenue.

Workers begin their day at 3 am to milk and feed the cows; there is a discounted lunch available on the farm for 1 peso that includes eight varieties of food. The farm workers are recruited from nearby towns and from family members already employed at the farm; they receive training based on their position at the farm. Inspectors regularly visit the farm which helps increase quality and quantity of the product.



**Union of Jurists – Sancti Spíritus**  
**By Joan Hill**

The Union of Jurists is like a bar association, providing different resources to the attorneys. They report the fundamental task as being to upgrade the profession of law in Cuba. They are made of “scientific chapters” i.e. labor, civil, criminal, family, international, etc., a total of ten. There are 800 lawyers in province.

A follow up to the discussion with the brother/attorney for the Cuban 5 was held. Lawyers asked about the judicial system in Cuba, and the role of the tribunal to establish guilt and punishment. We were told about the system of “professional” judges and “lay” judges, which are selected like a jury – proposed by the work centers and communities. All of these proceedings are presided over by a judge.

Organs of labor justice, the dispute resolution system in Cuba for workplace issues, establish the right to appeal the decisions of the organ to municipal court. Lawyers can present the law and other sources but ultimately, the appellate tribunal will apply the collective agreement to the situation. Witnesses can also be presented.

The delegates asked about a public defender system; other topics included sexual harassment and burdens of proof in criminal prosecutions. It was pointed out to us that lawyers also have a role in educating workers, through the CTC schools, on subjects such as labor law, collective bargaining, and other training for labor leaders. Lawyers make an effort to supply information for the work centers.



## V. Commentary

### BLACK LIKE WE

By Tami Lee

In Cuba, there is no fear of a racial war. Men are more than whites, mulattos or Negroes. Cubans are more than whites, mulattos or Negroes. On the field of battle, dying for Cuba, the souls of whites and Negroes have risen together into the air.

-My Race by José Martí

In so many ways, Cuba's society is so unlike our own. She has shown us that there are alternatives to Western democracy and its institutions and approaches to social problems. To understand Cuba is to force oneself to suspend personal expectations, experiences and histories and open the mind to new notions of freedom, rights and equality- an experience we should all be so fortunate to have. As a dark-skinned descendant of slaves and a citizen of the United States I have never been tested more on my conceptions of race.

Two events triggered my preoccupation with race and Cuba on this particular delegation: (1) I experienced the *ópera bufa* (a satirical performance common in many Latin American countries critiquing colonialism and repressive regimes) involving a young Cuban in black face and (2) after refusing to buy a *muñequita* representing a bulbous, black cartoonish figure of a woman in the market in Havana Vieja, I was accused by an Afro-Cuban merchant of not buying the doll because I did not like black people. I was told, in reference to and in potential explanation of both events, that since the Revolution, Cubans essentially do not see race- that they are all brothers and sisters in pursuit of common societal goals. I was not quite sure how to process such an explanation in light of the fact that if race didn't matter I would have expected to see bulbous, white cartoonish figures of men in the marketplace. But they were not there. And I was angry. Should I have been? Exactly who was being the racist here, and could it be that despite the pain I felt in my soul, none of it really mattered?

Negroes, who now use the word "racist" in good faith, will stop using it when they realize it is the only apparently valid argument that weak men, who honestly believe that Negroes are inferior, use to deny them the full exercise of their rights as men.

-My Race by José Martí

Those are tough words of self-help from José Martí, and it is not unlike those of contemporary leaders in the United States:

For the African-American community, that path means embracing the burdens of our past without becoming victims of our past. It means continuing to insist on a full measure of justice in every aspect of American life. But it also means binding our particular grievances - for better health care, and better schools, and better jobs - to the larger aspirations of all Americans -- the white woman struggling to break the glass ceiling, the white man whose been laid off, the immigrant trying to feed his family. And it means taking full responsibility for own lives...

-“A More Perfect Union” a speech by Barack Obama

So despite the societal and political differences, there are many things that link us as Americans, regardless of whether we are Latin American or North American, not the least of

which is race. Post-delegation I have gone from angry to sad to hopeful for race relations in Cuba and the U.S. after reading My Race by José Martí and Barack Obama's speech on race (delivered from the land of our founders at the same time I was having my personal race constructs tested in Cuba). These are two men from different historical periods speaking on the issue of race in vastly different contexts but offering profoundly congruent thoughts on the sources, responsibilities and solutions to the problem of race in two socially divergent countries. Race relations occur in stages and the transitions are far from smooth no matter how socially progressive your society might be. We fought a Civil War and Cuba launched a Revolution- both in the name of justice and equality but with very different legacies. Is it possible to erase all traces of inequality in all institutions with one revolution or even within 50 years? What I've learned from these great leaders is that there is a reason for my anger and sadness, but dwelling on it might hinder progress. There is a power in collective society if we treasure our histories but also accept the fact that progress, however slow, has occurred.

Just as black anger often proved counterproductive, so have these white resentments distracted attention from the real culprits of the middle class squeeze - a corporate culture rife with inside dealing, questionable accounting practices, and short-term greed; a Washington dominated by lobbyists and special interests; economic policies that favor the few over the many. And yet, to wish away the resentments of white Americans, to label them as misguided or even racist, without recognizing they are grounded in legitimate concerns - this too widens the racial divide, and blocks the path to understanding.

-“A More Perfect Union” a speech by Barack Obama

In the U.S., the sum of our parts does indeed make us unique and has great potential to make us strong as a society or to divide us black, white, brown, red and yellow or red states and blue states. But through our painful history we have learned that we must acknowledge the legacy of slavery and discrimination and their roots in our institutions before we can move forward. Some Cubans have chosen to start history over at the Revolution and work towards the future with a commitment to the equality for all. I wish her well, but as growing tourism forces Cuban society to interact with the deep-rooted histories of her visitors, she may find herself re-examining her own institutions to rid them of the remnants of a shared past of the original sin of slavery.



## Labor Education in Cuba By Joan Hill

*The following is from an independent research project conducted after the delegation of NLG participants ended. Joan Hill is a labor educator with the United Steelworkers International Union and focused this year on the role of the union in educating workers. She met with the Director of the Lazaro Pena School near Havana. Reports, including interviews from prior delegations were also included. This research was subsequently part of a presentation on Labor Education in Cuba and made to the United Association for Labor Education conference held in April, 2008, in Minneapolis, Minnesota. Ed.*

I have been a delegate to Cuba as part of a research project organized through the National Lawyers Guild. I first went to Cuba in 2002 and have returned annually, and one trip in the middle (for planning purposes). In total I have been to Cuba 8 times, all fully licensed, legal and permitted.

It is important to mention at the start that these delegations travel under great “hardship” because of the documentation required by laws that not only impose a trade embargo or blockade on Cuba, but limit travel by restricting the right to spend money in Cuba. This means that union professionals and/or academics must meet strict requirements of the U.S. government to travel, and then, once there, be engaged in a full course of research or professional program.

Historically, this is because of Helms-Burton Act (HB). This law, passed in 1996, strengthened the already existing embargo of Cuba that was initiated in 1962 by executive order under Pres. Kennedy and by legislation in 1963. These legislative restrictions lapsed under the Carter Administration but under Ronald Regan, were reinstituted. HB also penalizes foreign governments who do business with Cuba – they are prevented from doing business with the U.S. thereafter for a period of time, or docking at U.S. ports.

Important to note, also, is that the United Nations, has on 15 or 16 occasions, passed a resolution denouncing the embargo and lifting and trade sanctions. Of course, the US and

(Israel) are the only countries who regularly vote against this resolution. My hope, through this presentation is to start a discussion about a true labor education delegation to Cuba, expanding my research on the issue of the cost of the blockade on US workers (the only products that are allowed to be traded, sold, are agricultural products and food.

Also, it is important to talk a minute about the economics of the Special Period. Cuba had a long history of alignment with the Soviet Union during The Cold War. After the breakup of the Soviet Union, Cuba went through a Special Period where its economy essentially tanked and the black market rose. There was literally no oil to run cars or machinery and no imports of food, so exports of national products such as sugar, coffee and tobacco were limited. For about a decade, Cubans suffered tremendously. In the latter part of the 1990s, Fidel legalized the dollar and made it part of the monetary system. A modified version of this dual system continues today, with many Cubans only having access to the national currency, the peso, but a few having access to and receiving part of their salary in the convertible currency, the CUC. 1 CUC is equivalent to about 25 pesos. Currently \$1 equal about .80 CUC. Many workers live on the equivalent of about 20 dollars per month, supplemented by subsidized food and housing, and free education and health care.

Our trips have taken us to Havana and the provinces, including Pinar Del Rio, Matanzas, Cienfuegos, Sancti Spiritus, and Santiago. We have visited cities like Villa Clara, the Ché Guevara Memorial, Trinidad (a UNESCO World Heritage Site), and Playa Girón (the Bay of Pigs).

We have interviewed workers in many different work sites, cigar factories, steel fabrication, many different agricultural enterprises, schools, orphanage, construction business, hospitals and clinics, hotel workers and manufacturing plants, such as a cereal factory in the province of Matanzas.

### Union Structure, Membership and Training<sup>3</sup>

Cuba's nineteen national unions are all affiliated at the national level with the CTC, Central de Trabajadores de Cuba. They include Agricultural and Forest, Chemical, Mining and Energy, Civilian Workers of the Armed Forces, Commercial, Gastronomical and Service, Communication, Construction, Cultural, Education and Sports, Food, Health, Hotel and Tourism, Light Industry, Merchant Marine, Port and Fishing, Metal and Electronics, Public Administration, Science Workers, Sugar Workers, Tobacco Workers, and Transportation.

In many ways, the CTC is equivalent to the AFL-CIO, and the national unions are equivalent to the various international unions in the United States, but divided on skill and work jurisdiction.

Cuban unions are structured so that one national union has jurisdiction over all of the workers in a particular industry. Thus, at any given enterprise, only one union represents all of the workers, regardless of the various jobs which might be performed within that enterprise. This is true even in the construction industry, where there is one National Union of Construction Workers, as opposed to various craft unions.

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<sup>3</sup> Much of the information in this section was taken from the report of the 2002 NLG Delegation to Cuba.

The provincial organizational structure mirrors that of the national level, that is, there is a provincial CTC organization to which are affiliated the provincial organizations of each of the nineteen national unions.

On the local level, each enterprise generally has its own local union organization, known as a “bureau.” The bureau would be most equivalent to union locals in the United States. Bureaus are further subdivided into smaller units called “sections,” which are often organized within departments or shops.

Stewards are elected by the members at the local level. Meetings are held at the shop level, and whoever the workers want, and who also want to serve, are elected stewards.<sup>4</sup> All bureau and section officers are elected by direct and secret ballot. Workers nominate, and have a chance to express their opinions about, candidates in meetings.<sup>5</sup> Generally, there are more candidates on the ballot than available positions.

Union membership is voluntary. There is no such thing as a union security clause in collective bargaining agreements. Yet, nationally 98-99% of workers are union members, including the management of the enterprise.

Unions are completely funded by members’ dues. The amount of membership dues corresponds to wages, being generally 1% of wages. Dues are paid personally by the workers to the union at the local level, and can be paid in a variety of increments, such as annually, monthly, or for some other portion of the year. There is no such thing as a check-off system for automatic deduction of dues from wages.

Of the dues money received, the local level of the union retains 10%. This is used for expenses related to the union’s functioning, such as collective bargaining. The remainder of the money goes to the union’s municipal, provincial, and national organizations, and to the CTC. However, a large amount of the money going to the national organization goes back to the local level. In effect, ultimately about 80% of dues money is used at the grassroots level.<sup>6</sup>

The unions have their own auditing systems. Audits are conducted of the CTC and its provincial organizations, and for the national unions and their branch organizations. The results of the audits are made known to the rank-and-file. Unlike in the United States, where unions are heavily regulated and often audited by the government, in Cuba there is no government involvement in auditing unions.<sup>7</sup> And, unlike in the United States, where unions must file with the government detailed annual reports regarding finances and other matters, there are no such similar reporting requirements in Cuba.<sup>8</sup>

The unions attempt to ensure that union officers are trained for the performance of their duties. We visited a training class at the CUPET Oil Refinery. It was explained that all stewards at this facility go through a one week course. The collective bargaining agreement provides that

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<sup>4</sup> Discussion with union officers and stewards, CUPET oil refinery, Cienfuegos, February 20, 2002.

<sup>5</sup> Presentation by Secretary General of Cienfuegos Provincial CTC, February 21, 2002.

<sup>6</sup> Discussion with union leadership, hydrologic facility, *supra*.

<sup>7</sup> Presentation by Secretary General of Cienfuegos Province CTC, *supra*.

<sup>8</sup> Discussion with Guillermo Ferriol, February 22, 2002.

the employer pays 100% of the wages for people attending. The one week course is run three or four times during the year so that each steward has a chance to attend. In the basic course, the stewards learn about labor legislation, including the labor justice system, workplace safety, handling disciplinary matters, and collective bargaining. They also learn about such things as organizing meetings and taking minutes. The collective bargaining agreement provides for a certain number of paid hours off during the course of a month for union officers and stewards to conduct union business and training.<sup>9</sup>

Another aspect of training is the national and provincial training schools run by the CTC. The construction workers' union runs a provincial training school for workers to learn the trades. Workers get 100% of their salary while they are in school.

The CTC operates a national trade union school in Havana named after Lazaro Peña, the first General Secretary of the CTC. Our delegation visited this school in 2004. Last month, I had the opportunity, at the end of the delegation of labor lawyers, to meet with the new director of the Lazaro Pena School, Regla Maria Aguila. She has been the director for 5 months, and a teacher at the school for 5 years.

This school was established in 1975 and has as its mission to prepare and train trade union leaders in Cuba and from other countries. Since 1975, they have had many workshops and programs. Their main goals/areas are post graduate education, for certificate/diploma, and to improve union activities. As I said, courses are offered for both Cuban and foreign trade unionists.

The school operates from September to July. There is a scheduled program, but they respond and tailor programs based upon the needs of the trade unionists.

There are post graduate courses for foreigners – for the particular need of the union or student. They will do general call letters for classes and send this to organizations who in the past, have been in collaboration with the school/CTC, mostly in Latin America. Recently, they had a class for students from Ecuador for them to learn about Cuban unions and gender issues. According to the director, the CTC has relations with unions all over the world. Most of their students, however, come from Ecuador, Venezuela, Mexico and Argentina. They work through the World Trade Union Federation.

The school recently offered a course in English for Caribbean trade unionists. Translation can also be provided for English-speaking students. The school is accredited to offer post-graduate courses by the Ministry of Education, i.e. offering Master's courses, seminars, workshops. They offer classes in union leadership, accounting, finances, economics.

### Structure of Labor Education.

The national school leads, designs and organizes courses. There are 15 provincial schools, and they coordinate education for union members in each municipality. All teachers in the national and provincial schools are professors – some were former leaders in the union; there

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<sup>9</sup> Discussion with union officers and stewards, CUPET oil refinery, *supra*.

are over 300 nationwide. They also use collaborators, or adjuncts, including lawyers, university professors, and lay leadership from the unions. They recently carried out a program of basic labor law, and the director of lawyers and social policy from the CTC, a long time participant in our delegations, was the main professor.

Each union or bureau (local) will have collaborators or educators that have been trained at the National school or provincial level. One of the priorities is to train the collaborators and continue to provide support to them in each work site. They are volunteers; many are specialists in their area, safety & health, law, economy, communications, etc.

The school has a Board of Directors. Its divisions are teaching, public relations, foreign relations and international program, and management or logistics. The school's teaching division is divided into four departments: economy, management/communications, Cuban and foreign union labor movement, and legislation.

There is one program of education that was specifically approved by the 19<sup>th</sup> Congress of the CTC, the ABCs of trade union leadership, which can be modified according to the specific union – this was based upon problem identified in the 18<sup>th</sup> Congress. The CTC has its national meeting (or Congress) every 5 years.

Each union has a training course from its national office that is distributed to the grassroots local or bureau. There is a program on collective bargaining agreements, economic efficiency, ethics and value of trade unionists, labor law. Any program can be developed to the needs of a trade union.

They recently surveyed their own academic programs and developed a committee of professors and leadership. Outstanding programs have been identified in Havana City, Villa Clara, Mantanza and Las Tunas. The “best practices” of each of the programs was approved and will be reevaluated in 2.5 years.

### Funding.

The CTC schools are funded by dues paid to the CTC. Students attend without cost and are paid their salary while attending. Foreign students pay a fee for the package, based upon length of education course. Some courses are free. The hotel can house up to 240 students – used mostly for foreign students. The courses usually include field trips, where students are taken to work sites to observe economic activities in the country. The school has a new computer center which was established in collaboration with Belgium and Spain. The school has 9 classrooms, and a theater.

From September, 2006 to September 2007, 1500 students attended and graduated from programs at the school. Classes offered also included Spanish, history, computing, union history, and general culture. Many of these students were also educated in the provinces. The number actually attending the school was lower this year, due to the holding of the 19<sup>th</sup> Congress, which took up a lot of the time of the CTC and union officers. Through March of this year, 276 students had attended the school, as part of 20 different courses that had been offered.

Regarding post graduate courses, the number of students has been less than expected. Annually they budget for about 10,000 courses for Cuban and foreign students, adding another 200 to the number of participants.

For comparison purposes, it was clear from the interview with the director and from touring the facility, the role of trade unions in Cuba is quite similar to that of unions in the United States with regard to education and membership development. In both countries, unions use education, whether it is training for collective bargaining, member mobilization, or classes in labor history and law, as a means of building power within the union membership. The tools taught translate directly to either the bargaining or contract administration environment, and empower the workers to be better in their role of speaking and advocating for their co-workers.





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