



**Report of the United States Delegation to the International
Conference on the Role of Unions and Labor Lawyers in
Protecting Social Security and the
Eighth Bilateral Research Exchange among
Labor Lawyers, Trade Unionists, Neutrals and Scholars
Havana Cuba
March 12 through 17, 2007**



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 eighth bilateral (U.S./Cuba) and fourth international program of research and exchange between labor and employment lawyers, trade unionists, neutrals and scholars took place from March 12 to 17, 2007 in the City of Havana and the Province of Cienfuegos, Cuba. The program began with a two day international conference sponsored by the American Association of Jurists (AAJ) and the Latin American Association of Labor Lawyers (ALAL) on the role of unions and labor lawyers in defense of labor rights and social security. The conference was endorsed by the National Lawyers Guild (NLG) Labor and Employment Committee, the Labor Law Society of the National Union of Cuban Jurists (UNJC), the World Federation of Trade Unions, Americas Region (WFTU), the Cuban National Association of Law Collectives, and the Central Union of Cuban Workers, the Central de Trabajadores de Cuba (CTC).

The international conference was inspired by discussions during the 2006 bilateral research event, in which it was agreed that for 2007 we would work with ALAL and other international groups to include delegations from other countries in the Americas, and focus thematically on the common experiences of labor lawyers and trade unionists in mobilizing the state to protect workers' economic, social and cultural rights. To the extent the international conference accomplished and surpassed this goal, it was an unqualified success. Indeed, over 100 labor lawyers and trade unionists from Mexico, Brazil, Bolivia, Venezuela, Colombia, Ecuador, Puerto Rico, Nicaragua, El Salvador, Panama, Spain, Cuba and the United States came together to focus 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. (In most American countries south and north of the U.S. border, social security is broadly understood to encompass not just pensions but also health care, education, and income security.) As we develop the international event, we will be able focus even more sharply on specific issues of common interest in order to assure a consistently useful discourse.

When the bilateral project was first undertaken in 1999, the coordinators, Dean Hubbard of the United States and Guillermo Ferriol of Cuba, agreed that informal field research, including interviews with rank and file members of trade unions, was as important as the professional exchange among the lawyers and labor activists. Therefore, field visits to work sites, community centers, union offices and other establishments have been part of the NLG/CTC research exchange since the beginning. Like all previous delegations, the 2007 research program included this kind of field work, which focused this year on the Province of Cienfuegos.

Our research continues in spite of substantial barriers imposed by the U.S. blockade of Cuba. Without a doubt, every aspect of the material conditions of daily life of every person living in Cuba is impacted by the dense network of political and economic obstacles erected by the U.S. government. No genuine analysis of Cuban labor rights can ignore this reality or the corresponding regulatory environment of the Bush Administration which severely restricts travel to Cuba by citizens of the United States. Despite such hurdles, participants worked to build upon

the relationships and knowledge established by previous delegations. The continuing theme of this project has been to engage in open discussions and bring opinions together towards one principle: Solidarity.

As in the past, delegates were first provided various documents to aid in their understanding of the realities of trade union activity in Cuba. One of these documents was the analysis by Attorney Debra Evenson in *Workers in Cuba, Unions and Labor Relations*,¹ which provides a framework of the legal environment for labor relations in Cuba. This analysis provided essential knowledge of the historical, economic, cultural and political structures of Cuba as a foundation for the research conducted by the delegation.

Readers of this report should understand that it reflects the impressions, and in many cases the opinions, of the authors. The report is not a comprehensive documentation of the proceedings. Each delegation is unique to itself and the participants bring to the project their own impressions and interests. Some of the 2007 participants have been to Cuba several times over the history of this project and therefore, have developed a higher level of familiarity with Cuban law as it applies to labor relations. We have interviewed workers in a variety of work places covering agricultural, manufacturing, service and self-employment sectors, but this report should be read in the context of previous NLG reports, which are available upon request from delegation coordinator Dean Hubbard, dhubbard@slc.edu, or co-coordinator, Joan Hill, johill@usw.org, and are also posted on the website of the NLG Labor and Employment Committee, <http://www.worksafe.org/nlglaboremploycomm/international.cfm#Cuba>.

¹ NLG/Maurice and Jane Sugar Law Center for Economic and Social Justice (2002). Debra Evenson is an attorney who has practiced in Cuba and the United States, and is a past-president of the National Lawyers Guild.



Photo by Fran Schreiber

II. International Conference

This first section of the report summarizes the presentations made at the international conference.

Opening

At the opening session of the international conference, we were welcomed by Antonio Raudillo Martín Sánchez, who is a Vice President of the AAJ and the President of the Labor Law and Social Security Society of the UNJC. He pointed out that for eight consecutive years, the NLG Labor and Employment Committee has come to Cuba to show their solidarity for the struggle of Latin America against U.S. imperialism. He emphasized that Cuba's struggle is not against the American people, but the policies of the U.S. Administrations. In terms of the geopolitical moment of the event, he said that "war winds" are blowing and that Cuba and the Latin American countries are undergoing tremendous economic crises. He concluded that for Cuba, one of the most pressing challenges is overcoming the U.S. economic blockade.

Panel I: “Labor Rights and Social Security after Economic Change in the Americas”

A. Does United States Law Protect the Economic Human Rights of its Workers? What is the Relationship to Globalized Neoliberal Policies?

By Dean Hubbard (United States)

Dean Hubbard presented a paper on the enforcement of internationally recognized economic human rights of workers in the United States, and the relationship between globalized neoliberal policies and the limited protection provided by U.S. law. He pointed out that, outside the United States, the term “social security” is often considered to encompass all of the economic, social and cultural rights protected by international law (“economic human rights”), and fall within the broad umbrella of the state’s obligation to protect the economic well-being of the people who reside within its jurisdiction. In contrast, as a general matter, 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 basic economic needs. Indeed, most such claims have been explicitly rejected. 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 basic human needs, the entities’ failure to meet those needs themselves rarely gives rise to an actionable violation.

He reviewed the sources of economic human rights under international law, arguing that the fact that every individual in the world has a legal right to food, shelter, education, and to work with dignity provides the foundation for a powerful argument to interpret U.S. law consistently with this mandate. But for the most part, constitutional and statutory law in the U.S. has been interpreted only to provide “negative” rights, or protection from harm by the government, not a mandate for the government to affirmatively protect economic, social and cultural rights.

He then briefly summarized the treatment of economic human rights under the federal constitution (primarily the general welfare, due process and equal protection clauses), and pointed out that some state constitutions provide the basis for greater protection of economic human rights. He provided a truncated review of the way some federal statutes have been interpreted to address the human rights of employment (employment discrimination law, FLSA, OSHA, ERISA and the NLRA), income support (TANF, OASDI, SSI, Food stamps, Medicare, Medicaid), housing (HUD Section 8), and education (Pell Grants).

He argued that the ideological basis for some of the specific failures of U.S. law to protect internationally-recognized social security and labor rights can be found, at least in part, in the neoliberal policies that were widely implemented in the U.S. and around the world beginning in the early 1980s. He concluded that the struggle for the economic human rights of people in the U.S. is inseparable from the global struggle against neoliberalism. Specifically, economic human rights will be enforced under international and domestic law, and a socially aware global economy will come into existence, when working and poor people have the political and

economic power to make it happen. Attaining that kind of power will require a coming together of a broad array of global social movements built by millions of people committed to militant, long term, strategic, grass roots transnational organizing.

**B. Social Security in Brazil in Opposition to Neoliberal Politics.
José María de Paula Correia (Brazil)**

In this presentation on the social security system in Brazil, Judge Paula Correia explained the provision of a system of universal public health care without charge. In terms of social security retirement assistance, a minimum salary is required and the Constitution insures loans for retirement after 35 years. Minimum ages for retirement are established, 65 for men and 60 for women.² With limited retirement benefits, in 1988 the Brazilian Constitution addressed the problem of citizens having to cut their present wages to increase retirement benefits. The retirement age was raised to 65 from 55. However, the limited availability of jobs in the formal sector, and a resulting high unemployment at a rate of 15%, greatly impacts the availability and sufficiency of retirement benefits in Brazil.

**C. Reforms for the Protection of Maternity Rights in Cuba
Georgina Cambet Torres (Cuba)**

Sra. Cambet began by noting that an explanation of maternity benefits in Cuba requires an understanding of maternal social insurance prior to the Revolution. In 1934, social insurance benefits were established, but over the years, it was evident that such benefits were insufficient to meet the needs of women. Two laws regulating the work of women prohibited them from working for six weeks before and after delivery. The notion that this “protected” women was distorted, as women often held positions in offices, and worked as maids and teachers, and needed the income from work in order to provide for themselves and their families.

After the Revolution, new jobs were created and the health care needs of women and children were addressed. New laws reinforced the obligation to provide social security benefits to working women. For example, Law 1100 extended paid maternity leave benefits to six weeks before and after birth, plus additional time if the mother breastfed. Law 1263 extended this benefit to establish a total of up to 18 weeks of paid maternity leave. Paid leave included six weeks prior to delivery and an additional twelve after delivery. This benefit promoted “compulsory rest” at 34 weeks into the pregnancy.

Law 1113 of 2001, enacted as a result of a resolution passed by the CTC Congress, extended paid leave to one full year. However, this was only a start and more improvements were needed, according to Cambet. In 2003, a law was passed which recognized the importance of family and parent relationships and care for children by providing for the relocation of

² The distinction between retirement ages based upon sex, as is the similar practice in Cuba, was first acknowledged to a prior delegation with the explanation that women are recognized to have worked harder during their work life, with added responsibilities of the home, and therefore “rewarded” with earlier retirement options. (ed.)

permanent workers, while maintaining salary levels, in situations in which their pregnancy interferes with their ability to perform their regular work.



Photo by Joan Hill

Georgina Cambet

Under Cuban law, fathers have same rights to paid leave as mothers, pre and post-delivery. The parent who chooses to take the paid leave (presumably the primary caregiver) can receive up to 60% of their salary for one year. After one year, if the parent cannot return to employment, additional unpaid leave is available for three months. This right is extended to grandparents if necessary for child care. If the child is disabled, paid leave is available for at least one year and up to three years after birth.

According to Sra. Cambet, women are truly benefiting from Cuban society and policy. However, additional legislative change is needed to fulfill the will of the government to move the society to full equality in the workplace.

D. Maternity Rights in Brazil **Marcelo Henrique Ribeiro Da Silva (Brazil)**

This speaker presented an interesting approach to the issue of maternity rights in Brazil, describing it as a “progressive” policy. As a result of discrimination in the workplace, women leave the workforce. Once they are unemployed they have no resources if they become pregnant, leaving abortion as the only viable alternative. To reduce the number of abortions, the pregnant woman receives a state subsidy and is not required to work. If the mother is unemployed she can receive payments equal to minimum wage for the first six months after the birth. The purpose of this policy is in part to discourage abortion, or make it unnecessary.

E. Social Security in Columbia and the Implementation of the Neoliberal Model. Rafael Rodríguez Mesa (Colombia)

Rafael Rodríguez Mesa presented a bleak picture. He stated that Colombia, a country twice the size of Texas, has suffered from a social security process that hasn't benefited workers. In the 1940's, under Alfonso Lopez, a "caja nacional de provision" or a national provision box, was established. However it covered very little in the way of necessary provisions for the population, and in some ways prevented their fulfillment. Collective agreements, for example, could not include any provision for improvements to pensions. Such provisions would violate the "caja."

In the 1980's, with widespread implementation of the neoliberal model, the International Monetary Fund, after a meeting in Washington D.C., required that Colombia modify its social security system as a condition of further loans. The Colombian government complied. Law 100 was passed in 1993, privatizing many aspects of social security. Again in 2003, legislation was passed making access to pensions even more difficult. A pension fund was supposedly formed, but was never funded by the government. 51% of pension funds are privatized. Employees still cannot negotiate for additional pension benefits.

Then there was a further reduction of pensions due to the "Tratado de Libre" with the U.S. In addition, Colombia limits the sale of generic pharmaceuticals. The result will be to put the price of medicines out of the reach of the ordinary people. As a result of laws such as those described, public health has suffered. Immunizations are down to less than 60%; pregnancy among teens is 1 in 5; infant mortality is 33 out of 1000, compared with Cuba where it stands at 5 out of 1000.

Finally, Sr. Mesa pointed out that union membership by Colombian workers is at its lowest level in years. It stands at 4.6%, whereas in 1974 it was at 12.5%. This is due in significant part to the fact that since 1991, over 2000 Colombian trade union members have been murdered.

Panel II. The Protection of Migrant Workers. Discrimination, Violence and Social Exclusion

A. Immigrant Workers and the U.S. Labor Movement: Towards A Sound Immigration Reform Policy by Joan G. Hill (United States)³

Many of the increasing number of immigrants in the United States are unskilled, work under exploitive conditions and live in poverty. Immigrant workers are disproportionately

³ Although employed by the United Steelworkers union as an Educator, Ms. Hill explained that her opinions were her own, and she did not make any representations on behalf of any organization.

represented in dangerous industries like construction, manufacturing and agriculture. Immigrant workers account for nearly 70 percent of workplace fatalities.

In the U.S., a workers' immigration status is often used to silence any voice these workers have in the workplace, creating a "subclass of workers who have no meaningful way of protecting their civil rights." In the U.S., labor unions have sought to bring that voice to workers who would otherwise not complain about workplace conditions.

Examples of this effort include the "**Justice for Janitors**" campaign, a 20-year movement to unionize janitors, immigrant workers, by the Service Employees Union in Los Angeles.

In 2000, the **United Union of Roofers and Waterproofers** started their "Justice for Roofers" campaign in the State of Arizona, in the southwestern U.S., with no union roofers in the state. Since then more than 800 roofers, most of them immigrants, have organized into a union, and won collective bargaining rights in their work. This figure represents close to 30 percent of roofers working in residential construction.

The **Coalition of Immokalee Workers** is a community-based worker organization whose 2500 members are largely Latino, Haitian, and Mayan Indian immigrants working in low-wage jobs. The majority of members work for large agricultural corporations in the tomato and citrus harvests, traveling along the entire East Coast of the U.S. following the harvest in season. In 2001, the Coalition launched the first-ever farm worker boycott of a major fast-food company -- the national boycott of Taco Bell -- calling on the fast-food giant to take responsibility for human rights abuses in the fields where its produce is grown and picked. The fast-food industry as a whole -- including industry giants such as McDonalds, one of the nation's leading consumers of lettuce, tomatoes, apples, and pickled cucumbers -- purchases a tremendous volume of fruits and vegetables, giving these corporations the power to demand the lowest possible prices from their suppliers and exerting downward pressure on the wages and working conditions of workers for those vegetable suppliers. The Taco Bell boycott gained tremendous student, religious, labor, and community support and a fast-growing movement to remove Taco Bell restaurants from college and high school campuses swept the U.S. Ultimately, in 2005, Taco Bell and its parent company agreed to meet the workers' demands to improve wages and working conditions for Florida tomato pickers. The campaign is now directed towards McDonalds.⁴

The **Farm Labor Organizing Committee**, AFL-CIO, (FLOC) is both a social movement and a labor union. Its membership is primarily migrant workers in the agricultural industry.⁵ The FLOC vision emphasizes *human rights* as the standard and *self-determination* as

⁴ After we returned from Cuba, on April 9, 2007, McDonalds Corporation signed an agreement with CIW to increase the payment for tomatoes, a penny more per pound, to the workers harvesting the tomatoes. McDonalds also agreed to a stronger code of conduct based on worker participation and to develop a system to monitor working conditions and investigate workers' complaints.

⁵ It is important to note that under our National Labor Relations Act, farm workers, who are largely immigrants, don't have the right to organize and form a union like other workers. As a result, farm worker unions frequently resort to the boycott tactic to put pressure on the company.

the process for achieving these rights. The boycott of products of the Mt. Olive Pickle Company was called for in 1999 to bring the company to the negotiating table. After five years of a public action boycott, FLOC reached an agreement with the North Carolina Grower's Association (NCGA) and the Mount Olive Pickle Company. Agricultural "guest" workers in North Carolina became the first in the history of the United States to win union representation and a collective bargaining contract, and theirs became the largest union contract in North Carolina's history, covering over 8,000 workers.

Just as the Freedom Rides of the early 1960's exposed the brutality of legal segregation between whites and blacks in the U.S. South, the **Immigrant Workers Freedom Ride** sought to expose the injustice of current policies toward immigrants. Buses were boarded from many cities in the western U.S. and traveled to Washington DC to raise awareness of the issues of immigrant workers in the U.S.

Trade unions in the U.S. generally agree that an overhaul of our nation's immigration laws is long overdue. The system of immigration is the basis for exploitation of workers. It has allowed employers to create an underclass of workers, which has effectively reduced working standards for all workers. Failed immigration policies also have encouraged employers in the U.S. to use guest worker programs and turn tens of thousands of permanent jobs into temporary jobs. Temporary guest worker jobs come with few or no benefits such as pensions or health care, wages are lower, and the workers who fill these jobs remain contractually tied to the employers and vulnerable to exploitation.

Any solution to this crisis must address the reasons why individuals migrate to the U.S.: the international development process has failed and trade policies have weakened the economy and labor protections. Trade agreements such as the North American Free Trade Agreement undermine the agricultural economies of developing countries, leading workers to leave their farms and migrate to the U.S. Immigration reform must also address the factors pulling workers to the U.S. for work: Too many employers seek to avoid U.S. labor and employment laws through the recruitment, importation and exploitation of undocumented and "guest" workers.

B. Migrant Workers in Mexico and the Border Wall with the United States Oscar Alzaga (Mexico)

According to Sr. Alzaga, out of the 30 million Mexicans living in U.S., 19 million are naturalized and 11 million are not. Out of the 11 million who are not, 4.5 million have green cards, while 6.5 million are undocumented workers.

Broadly, the U.S. labor force has four large classifications of ethnic groups: Anglo-Saxon, Asian, African-American and Latino. Out of these four groups, Latinos make the lowest salary, according to Sr. Alzaga.⁶ There is much discrimination in the U.S., as evidenced by the disparity in salaries even amongst Anglo men and women.

⁶ However, according to the U.S. Census Bureau, "Black households had the lowest median income. Their 2003 median money income was about \$30,000, which was 62 percent of the median non-Hispanic White households. Median income for Hispanic households was about \$33,000 in 2003, which was 69 percent of the median for non-Hispanic White households. Asian households had the highest median income among race groups. Their 2003

Union density is declining in the U.S. in the private sector workforce. In the 1980's 30% of this work force was unionized, yet now that figure has been reduced to only 12%.⁷ Latinos are currently the only ethnic group that is experiencing growth in union density.⁸ In December 2005 a law related to immigration was passed by just one house of the U.S. Congress, which would have criminalized undocumented immigrants and those who aid them.

On the northern boundary, Canadian and U.S. citizens go back and forth easily, according to Sr. Alzaga. Yet undocumented Latino Mexicans are identified as criminals, drug dealers and terrorists. This is discriminatory, as these labels would never be applied to Canadians and Europeans.

In three areas of labor; agriculture, construction and the service industry, the workforce is predominantly Latino. Many Anglos and Asians would not even apply for these types of jobs, according to the speaker. UN studies, he argued, have confirmed that most of the undocumented Mexican populations are workers, not criminals. Yet this population is treated as if Mexico itself is a terrorist. In the U.S., migrant workers' rights are consistently being violated, by the standards of most developed countries.

Sr. Alzaga said he did not want to justify Mexico as an exporter of its labor force, bad leaders and low pay. The average minimum salary in Mexico is slightly lower than Brazil, at \$136 per month. The lack of employment is even worse than such low salaries. The economic policy of Mexico towards unemployed youth essentially leaves them three choices: to go to the U.S., to work in the informal sector, or to become a delinquent. There is very little formal employment offered in Mexico, according to the speaker.

**C. Discrimination, Violence and Social Exclusion: Legal Strategies in the U.S. to
Protect the Economic Rights of Undocumented Immigrant Workers
By Lisa Brodyaga (United States)**

This presentation summarized the history of some of the major legal principles impacting undocumented immigrants in the United States, such as the rejection of principle that economic rights are human rights; the ability of Congress to override treaties, and to enact legislation

median money income was about \$55,500, 117 percent of the median for non-Hispanic White households." U.S. Census Bureau, "American Fact Finder, People: Income and Employment."

http://factfinder.census.gov/jsp/saff/SAFFInfo.jsp?_pageId=tp6_income_employment (last visited May 30, 2007).
Ed.

⁷ Actually, the *overall* percentage of workers who are unionized in the United States has declined from a high of 20% in 1983 to about 12% today. According to the U.S. Department of Labor, the density figure is only 7.4% in the private sector. United States Department of Labor. *Union Members Summary*, Bureau of Labor Statistics News (January 25, 2007), <http://www.bls.gov/news.release/union2.nr0.htm> (last visited May 30, 2007). *Ed.*

⁸ According to the Department of Labor, the union density among Latino workers declined from 10.4% to 9.8% from 2005 to 2006. *Id.*, *Table 1. Union affiliation of employed wage and salary workers by selected characteristics*, <http://www.bls.gov/news.release/union2.t01.htm> (last visited May 30, 2007). *Ed.*

which retroactively rescinds immigrants' rights and creates new grounds of deportability; and the principle that control of immigration is an attribute of sovereignty, in which the Courts have little or no right to interfere.

It also surveyed the ever more restrictive legislation creating a new class of "wage-slave" immigrants who are permanently undocumentable, based on conduct as innocent as having left the U.S. to attend a relative's funeral, and returning illegally.

Finally, Ms. Brodyaga discussed some of the legal strategies being developed to protect the rights of undocumented immigrant workers, based primarily in the "Substantive Due Process" branch of the Due Process Clause of the Fifth Amendment of the U.S. Constitution, and how these strategies are being played out in real life cases. In particular, the interaction of the procedural and substantive branches of the due process clause was illustrated by the history of a Mexican immigrant, who has been a lawful permanent resident since 1960, raised 11 U.S. citizen children, and had only one legal problem in his whole life, a confrontation with the troubled step-daughter of one of his sons, which ended with him poking her in the breast, and charges of "sexual abuse of a minor." This case was fully developed on Substantive Due Process grounds, but never went to trial. Instead, the Court of Appeals remanded on a technicality, (i.e., Procedural Due Process), and it is hoped that the Immigration Judge will grant relief.

However, the case illustrates the fate of many immigrants. Should he lose, and be deported, he will forfeit all right to Social Security payments and Medicare benefits, even though he faithfully paid his taxes for some forty years. Further, it will cause extreme hardship to his permanent resident wife, who recently had a kidney transplant, and depends on him for moral and logistic support. If she goes to Mexico to live with him, she will also forfeit her Social Security and Medicare benefits. And if she remains in the U.S., she will lose an entire month's benefits every time she goes to visit him.

Commentary on Migration to the North

In response to the immigration panel, Martha, a retired teacher who was a member of the Salvadoran delegation, was moved to offer the following poem and fable.

SEARCHING

By: Maquilishuat*

She is Ella
Ella is beautiful
She went North
seeking stars
for her three year old girl.
She went there ... far away, far,
with her shattered heart
her heart so pure
but Ella
found a great wall.

Time goes by,
and nary a letter
not even a call.
But her little girl grew up:
"Grandma: Where is my Mother?
Does she not send stars,
my Mom?
See... Because stars
has the flag of the North
and also dollars."
And the Grandmother replies:
"Oh my darling!
Let's go out to the yard
The stars your Mother sends
are all high in the sky
Because she is
in every one of them.

To that little house
with dirt and bamboo walls
never a dollar arrived
nor did she come back to her country.
Was she raped?
And the shame of the outrage
deters her homecoming?
Ella never returned...
Was she murdered?
Ella never came
What happened?
Whatever happened?
And... Is this what humanity
is supposed to be?
"We are on a good path,"
says the foolish Saca President.

*Maquilishuat is the national tree of El Salvador. The Maquilishuat tree, with deciduous leaves, blooms between March and April. Its flower has three color varieties; white, pale pink, lilac to pastel rose.

Legend says that in antiquity, before the arrival of the Spaniards to our continent, there was a *Cacique*, the local chief, who had a son, the prince. The prince traveled in his carriage throughout his father's domain to meet and greet the people.

Among the people who would come out to see and greet their prince was a young woman who was in love with the Cacique's son, loving him in silence because it was an impossible love. But she harbored the hope that one day her beloved prince would just look at her; with only one look she would be happy and her loving heart would be satisfied.

One day, the prince was coming and Maquilishuat, which was the young woman's name, went to see the carriage, with a prayer to the gods: that if only once her beloved would gaze upon her. The benevolent gods, with the purest love, turned her into a flowering tree with sweet pink flowers.

When the prince saw the beautiful tree, he had the carriage stop and did not only see the tree, but he remained ecstatic for a long time. Ever since, the people of those days and the Salvadorans of today look forward to March to see the Maquilishuat. But now the flowering Maquilishuat only lasts a very short time dressed up in her rose or lilac best--approximately only one week -- as if that little girl would want us to understand how much she suffered waiting, waiting ... and waiting for her beloved prince.

(Since this is a legend, it does not have an author.)

The original poem was given to Lisa Brodyaga by the author in Spanish. Since poetry sometimes loses something in translation, copies of the Spanish version may be obtained by contacting Lisa directly at lisabrodyaga@aol.com.

Panel III. Labor Rights and Social Security After the Process of Integration

A. Labor Rights in light of NAFTA José Luís Contreras (Mexico)

The implementation of neoliberal policies in Mexico began in 1982. Twenty-five years later, these policies have resulted in economic depression, major loss of history, culture, national identity, denationalization, hunger and exploitation. Mexico has lost control of inflation schemes, control of service work and foreign trade. The economy has been opened so it can be absorbed by others, services have been privatized, and economic activity has been deregulated. In essence, corporations are acting without any bridle.

At the 2002 summit meeting in Monterey, Mexico, former President Vicente Fox refused to meet with Cuban President Fidel Castro, and actively promoted working towards acceptance of George W. Bush's proposed Free Trade Area of the Americas (FTAA). After Castro left, Bush said he favored the FTAA as the best way to eradicate poverty.

Prior to NAFTA, Mexico had a commercial deficit with U.S. Now they export high tech equipment, consumer goods, televisions and cars and are 6th in the world as industrial producers of cars. But the beneficiaries of all these exports are the transnational corporations.

Fox boasted of exporting power, but now the growth of Mexico is nil. This has resulted in negative consequences for the Mexican worker, particularly in the Maquiladoras sector of the economy. The competition with Asia is particularly problematic because it is already privatized. Thus, China and Singapore are much more attractive as sources of labor. Certain workers rights have never been implemented, such as freedom of association, collective bargaining, right to strike, child labor, minimum wage, overtime, protection against discrimination and health and safety. The right wing government in Mexico now wants to reform the labor code, privatize labor, oil, and eliminate social security and pensions. There has been no increase of employment in Mexico due to neoliberalism. Over .5 million jobs have been lost, and poverty has increased 51.5% from 1980. NAFTA has had a negative effect on Mexico and the choices for its young people. They are faced with an unstable employment market, which causes migration to US, or employment in drugs, human trafficking and criminal enterprise.

B. Social Rights in Integration **Lidia Guevara Ramírez (Cuba)**

Sra. Guevara, the Vice-President of the Association of Latin American Labor Lawyers (ALAL), discussed the growth of the Bolivarian Alternative for the Peoples of Our America, or ALBA, as an alternative trade network which rejects neoliberalism. Originally signed by Venezuela and Cuba, and premised on principles of solidarity between developing economies of the Americas, ALBA now includes Bolivia and Nicaragua as signatories. The so-called ALBA countries have entered into a cooperation agreement with the CARICOM (Caribbean common market) nations. Argentina, Brazil and Uruguay have all signed bilateral agreements with Venezuela, based on the principles of the ALBA, and Hugo Chavez has now invited Ecuador and Jamaica to become full-fledged signatories of the accord.

It is interesting to consider that, in contrast to social movement convergences such as the World Social Forum and various regional social forums, ALBA provides a framework to *institutionalize* progressive social policy on a transnational basis. It potentially provides a concrete vehicle to build policy and institutional networks as alternatives to the global privatization, deregulation and flexibilization of work inherent in neoliberal trade agreements such as the proposed FTAA.



Photo by Joan Hill

Dr. Ricardo Alarcón de Quesada with Guillermo Ferriol Molina

**Special Intervention of Dr. Ricardo Alarcón de Quesada,
President of the People’s National Assembly (Cuba)**

Ricardo Alarcón described the plight of the Cuban Five, who are imprisoned in separate maximum security jails scattered across the United States, often in solitary confinement, serving lengthy sentences in connection with their efforts to keep tabs on terrorists in Miami planning attacks on Cuba. Alarcón argued that they are the victims of a huge injustice. They have not harmed anyone, and their trial was riddled with scandalous violations of law. Alarcón also called attention to the absence of media coverage outside the hostile coverage in the Miami area, the withholding of evidence from the defendants and their lawyers, and the restrictions on family visits with the Five.⁹ Finally, Alarcón recalled the writings of C. Wright Mills, particularly “Listen Yankee,” written after Mills visited Cuba in 1960. Mills, writing from the perspective of angry Cubans, warned Americans that they were being misled by their government about the nature of the Cuban revolution. Mills hypothesized that the United States would lose influence over Latin American countries if it persisted in ignoring the legitimate concerns of the poor and the hungry, a prophecy he said is now being fulfilled.

⁹ Dr. Alarcón’s exposition on the situation of the Cuban 5 is discussed in greater detail as the cover story on the April 2007 issue of the NLG Labor and Employment Committee newsletter, available on line at <http://www.worksafe.org/images/contentEdit/docs/0Apr%202007%20NIg%20L&EC.pdf> (last visited May 30, 2007).



Photo by Joan Hill

Sr. José Julio Carbonell García Moderates Panel on Labor Rights Reform

Panel IV. Experiences in the Reform of Labor Rights and Social Security in the Continent

A. Labor Reforms in Venezuela Félix Benítez Millán (Venezuela)

The election of Venezuelan President Hugo Chávez in 1998 inaugurated a process of radical political and social change. Following an extensive process, a new Constitution, called the “Constitution of the Bolivarian Republic of Venezuela,” was adopted in 2000. Title V (“Of Social and Family Rights”) contains extensive provisions relating to labor. Article 87 defines work as both a right and a duty. Article 88 guarantees equal rights to men and women. Articles 89 through 93 create protections against exploitation of workers. Some examples are the establishment of an eight hour work day, a guarantee of a living wage, and protections against arbitrary termination. Articles 94 through 97 protect the right to form unions, to bargain collectively, and to strike.

President Chávez survived both the U.S. backed coup and the business-led oil industry shutdown of 2002–2003. Thereafter, he consolidated his administration with a dramatic referendum. As a result, and with the help of oil revenues, he has been able to forcefully reject the neoliberal economic model, and adopt a high-profile alternative, based on the prioritization of social welfare. He is putting into practice the Bolivarian philosophy that the government that creates the most happiness is the most effective. Although traditional labor law has yet to be overhauled, among the beneficial changes for Venezuelan workers are that the minimum wage is tagged to rise faster than inflation; and workers are now entitled to 15 days vacation annually, plus an additional day for each year on the job. In addition, the entire population, not just workers, is now covered by Social Security protections and benefits.

In recent years, Venezuela has also implemented a number of social programs, designed to make literacy universal and free education universally available, to facilitate cooperative industries on the neighborhood level, to rehabilitate street people, and, with the help of Cuban doctors, to make high-quality medical care universally available. The achievements noted by Sr. Benitez include a declaration by UNESCO that Venezuela has achieved 100% literacy.

B. Social Legislation or Neoliberal Legislation: The Experience of Puerto Rico
Alejandro Torres Rivera (Puerto Rico)

In his presentation, Sr. Torres Rivera emphasized that from the 1940s to the 1990s, with the transition of the economy from an agricultural to a manufacturing-oriented mode (due in part to the influence of and the colonial relationship with the United States), labor legislation was oriented to social development. As in the United States, in Puerto Rico there is a “state regulation” of union activities such as collective bargaining, the formation of labor unions, and safety and health conditions. Though mandated by the U.S., the Constitution of Puerto Rico provides for the protection of workers, including equal pay for equal work, a minimum wage, eight-hour day, and overtime. There are also protections for the right to unionize, to bargain collectively, to strike and picket, and engage in other concerted activities. He gave the example of the national strike against the sale of the national telephone company to a U.S. based corporation.

However, since the 1990s, Puerto Rican workers have endured what he called a “business/government offensive” similar to that endured by workers in the U.S. to roll back the gains of the previous half century. In the political class, both the so-called annexationists” (favoring Puerto Rican statehood) and those who favor the status quo (commonwealth status) reflect the interests of the bourgeoisie and view the achievements of the working class as obstacles to the development of the country, according to Sr. Torres. Now, unions in Puerto Rico have to practice defensive bargaining, in order to not lose what has already been achieved.

In commenting on the role of strikes in labor relations, the speaker forcefully argued that trade unions in Puerto Rico have the role of “breaking down legal schemes created by capitalists. Only when workers can create crisis does change occur.” If unions see themselves as bound by legislative and judicial restrictions, they become the agents of capitalists and forget that the role of law is ancillary to political and economic struggles.

**Panel V: The Role of Unions in Defense of
the Labor Rights and Social Security of Workers**

A. The Role of Labor Unions in the Defense of Labor Rights

by Kenneth R. Page (United States)

Editors' Note: Because of the importance of this presentation, it is reproduced here in its entirety.

It is both a privilege and unique honor to be here with you in Havana, among so many committed to the labor movement of our hemisphere. I am also proud to note my membership in the National Lawyers Guild and thank them for their continued efforts to connect us with our friends and comrades here in Cuba. As an attorney in New York, I have the pleasure to represent the 38,000 women and men of the Transportation Workers Union, Local 100, who risk life and limb to transport over one million riders every day.

My affiliation with the Guild and my employment with the Union are important to who I am, but the ideas I share today are mine alone and do not necessarily represent the views of either organization.

The speakers that have come before me have, in a dynamic and comprehensive fashion detailed important and critical points. In the best international traditions of the legal profession, I will attempt to avoid repeating what has been fully and seamlessly shared.

However, if you would indulge me for just a few moments, I would like to add my own brief commentary. I must further explain that you may be able to detect some emotion in my words consistent with my cultural reality as an African-American. Malcolm X taught us that there are some things which are too important not to be a little emotional about. The topics at this conference are such things.

It is this community—the African-American community to which I belong—whose embrace, love, pain and beauty inspire me daily. I feel these sentiments without one ounce of cultural chauvinism. In fact, it is this love, respect and attachment to my own community and culture that allows me to see and feel the same for every community, culture and race on our planet. This further allows me the easy embrace of a citizenship beyond geographic borders, race and time. A true international citizenry is what we need in this critical time, where there are complete human beings who feel and resist the brutality of oppression and imperialism wherever it is. My people and my truest compatriots are those people anywhere on the planet that are standing against the brutal and irrational economic system that currently prevails in the world: a system that allows a young African-American worker to be shot at 50 times, while at the wheel of his car, by an abusive police force. And the next day, the corporate media markets a filthy explanation for this state sponsored murder. A system where a Transit track worker can be dead, or close to death, from work-related injuries while on the job in New York and the bosses can make a decision to move his body without notification to medical personnel just to avoid train congestion.

A system where millions of children in Asia, Africa and Latin America have no electricity, and are uncertain where their next taste of clean water or next meal will come from.

A world where thousands of innocent Iraqis can be savagely bombarded to death and the media in Washington and London cynically talk of “freedom” for these same people.

This group knows I could go on and on. The facts on the ground all around the world are clear.

This brings us to my topic of Defending Labor Rights, with the definitive question being, what are we going to do consistent with all our presentations? I have a few suggestions in this regard:

1. Lawyers in the western centers of capital must work hard to support movements and labor while always explaining clearly the limitations of a system designed to maintain the status quo. Legal strategies should never be confused or substituted for political movements and mass action.
2. Unions have to look beyond their own membership to the masses of unemployed workers—pulling them into the labor movement by supporting issues critical to the poor and working poor who have no union at their side.
3. And consistent with the opening presentation of Dean Hubbard, we need an international movement of workers and people like us to fight for the kind of world we deserve.

The hint of urgency you may note is born of the pain of having three male cousins murdered in the hopelessness of poor urban America. It is further founded in the knowledge that in Washington, London and other places you know about, they are planning daily against us who are calling for a new and more just world. And before it is too late, people like us here must take responsibility for changing the current disastrous path of our planet, and instead turn toward a world where all the planet’s inhabitants have a fair chance to reach their full humanity. With ample and clean water and food, quality housing, free public education at all levels, comprehensive free health care for a lifetime, and the right for adults to love and marry whomever they choose. A world where human rights are preeminent to the unchecked consumerism, profits and property rights of the current path. If any of you are prepared to work toward this vision of the world, I am a citizen and countryman with you in that space regardless of your geographic location.

**B. International Panorama of Unions
and the Present Role of the Workers Movement: A Cuban Experience
Lydia María Ramos Fernández (Cuba)**

Lydia Ramos, a labor lawyer who has been a participant in several of our previous bi-lateral research projects, presented on the new strategies of the labor movement in Cuba as the result of the last Congress of the CTC, which took place in September 2006.¹⁰ These strategies

¹⁰ Each national union and the CTC hold a congress every five years at which new leaders are elected, and resolutions are adopted which address not only what would be considered labor issues in the U.S. but, given Cuba’s self-definition as a “workers’ state,” law and policy impact the entire nation.

include a process to strengthen the economy and thereby protect woman's' right to work, secure greater maternity rights, and enable the rights of single women. Programs for young workers were also a part of the most recent Congress, including efforts to increase the training of workers.¹¹

Since the inception of the Base Organs of Labor Justice (OJLB), workers have been afforded the right to choose a lawyer of their own, and to appeal decisions of management, either disciplinary or denial of benefits. This affords lawyers in Cuba the opportunity working in nongovernmental legal collectives to represent the interests of workers, as well as representing the interests of the national unions.

C. The Right to Strike in the United States: Reality or Myth by Robert M. Schwartz (United States)

The National Labor Relations Act (NLRA), enacted in 1935, guaranteed U.S. workers a right to strike and prohibited employers from retaliating or discriminating against strikers. After the Act's passage, unions "hit the bricks" in unprecedented numbers. It was not long before capital began a determined effort to undermine the Act.

The first blow was the Supreme Court's 1938 *Mackay Radio* decision. *Mackay* gave employers the right to hire permanent replacements for striking employees without having to prove that temporary workers were unavailable.

The second blow was Section 8(b)(4) of the Taft-Hartley Act passed in 1947. This law made it illegal for strikers to picket businesses other than their own, such as suppliers, customers, or subsidiaries. It even forbids U.S. unions from sending workers to picket in foreign countries or arranging for foreign unions to picket customers or branches abroad.

The third blow was a 1984 decision of the National Labor Relations Board called *Clear Pine Moldings*. *Clear Pine* allows employers to discharge strikers for non-violent activity on a picket line that is "reasonably likely" to intimidate non-strikers. It makes it difficult for unions to conduct an effective picket line and in combination with *Mackay*, enables employers to easily hire large numbers of permanent strike replacements and get them in to the workplace.

The fourth blow is a series of state and federal laws banning strikes by public employees. On the federal level, employees who engage in strikes can be fined and imprisoned. The majority of states also forbid strikes by public employees.

In conclusion, the presentation made several recommendations for the reform of labor laws in the United States that would restore the legal right to strike as envisioned by the drafters of the National Labor Relations Act.

¹¹ In 1994, the CTC retained the services of the law collectives to provide legal assistance to the national unions. These lawyers also provide training to the local unions and advise the unions on legislative proposals.

D. From Neoliberal Globalization to the Globalization of Hypocrisy
Martha Martínez Navarro (Cuba)

Sra. Martínez Navarro, the regional representative of the World Federation of Trade Unions (WFTU), described the mission of the WFTU as strengthening anti-imperial trade unionism. She offered the view that neoliberalism is debilitated, not dead. She defined neoliberalism as an instrument of empire, and said that the imperial project is alive and well. She commented that labor leaders who make compromises in the interests of capitalism are not acting in the interests of workers. She noted with skepticism the decision of the World Bank to “integrate” the eight core conventions of the ILO. She commented that at times trade unions in the developed world insist on blanket implementation of these fundamental norms without regard to the different levels of development of each country. She argued that this approach helps maintain the dominance of the developed countries, and viewed the decision of the World Bank in the same light.

Presentation: The Attempted Reforms by the Bush Administration
to Labor Legislation and Social Security in Cuba
Guillermo Ferriol Molina (Cuba)

As discussed in the report of the 2005 NLG delegation, the Bush Administration commissioned a set of recommendations to govern an anticipated transition to a “free” Cuba, which have become official U.S. policy. Sr. Ferriol, discussing these policies, noted that they contain several elements which would profoundly and adversely impact workers’ rights in Cuba, including a transition from a socialist to a capitalist market economy, and a review of labor law to facilitate this transition. He identified four major specific effects intended to arise from the labor deregulation which would accompany the transition:

1. Bringing Cuba into compliance with ILO standards. Ferriol remarked on the irony of this representation, given that the U.S. has ratified only two of the eight core conventions, while Cuba has ratified them all. He referred to this as a case of “do as I say, not as I do.”
2. Developing a culture and practice of equal opportunity. Ferriol maintained that the basic element for access to employment in Cuba is ability, not race or gender. He pointed out that in other parts of Latin America which have implemented the neoliberal model, the unemployment rate for women is 1.5 times that of men, that of youth over 16 is nearly double that of the general population, that there are nearly 20 million 5-14 year olds working, 185 million people in poverty, and 50% of all employment is in the informal sector.
3. Putting someone from the Cuban exile community in the U.S. in charge of the Ministry of Labor.
4. Reforming the system of retirement and pensions to fund them with employer contributions, and use state earnings from the funds for other purposes. Ferriol noted that the budget for social security is \$3.5 billion, a huge proportion of the GDP, and that they increased the minimum this year.

The actual reports from the Bush Administration’s commission are available through the State Department website at <http://www.cafc.gov/rpt/>.

**Special Intervention by Josefina Vidal,
Director of the Ministry Of External Relations with North American
by Claudia Morcom¹² (United States)**

Josefina Vidal delivered some sobering facts to us about the United States policies and actions against Cuba. Some of this information was known to members of our delegation who had participated in prior delegations, but not to the newcomers who were hearing this for the first time. This is especially true about the Bush administration's increased illegal and inhuman restrictions and limitations on U.S. travel to Cuba, and its relations with Cuba. Ms. Vidal stated that most administrations in the U.S., whether Republican or Democratic, have taken steps to distance themselves from Cuba since the Revolution in 1959. However, she said the Bush administration had been one of the most aggressive Cuba has had to face.

She said the Bush administration has introduced two new factors into the ongoing efforts to change the system of government in Cuba:

1. The escalation of the neoconservative sectors trying to change those regimes or governments the Bush Administration considers to be hostile to the interests of the United States, by warfare, coup d'état, or democratization by force. this includes an express policy of bringing about "regime change" in Cuba.
2. The insertion of large numbers of representatives of an extreme right-wing Cuban exile community into high levels of the Bush Administration.

After the 2000 election, there were 52 Cubans nominated by Bush to positions of power. There are 26 Cuban Congressional representatives, out of synch with any other minority representatives. The Cuban right wing is directly inserted into the decision making process for the Executive Branch policies against Cuba.

Ms. Vidal stated they have witnessed a tightening of the rhetoric toward Cuba. In 1988, she said, the Pentagon issued a statement saying the U.S. does not consider Cuba a threat. However, this is contrary to statements contained in the Helms Burton Act, which requires U.S. diplomatic documents to describe Cuba as a threat, regardless of the reality.

Cuba has been listed as 1 of 25 countries that are "unstable." Before Castro became ill, the U.S. decided it had to create a plan to interfere in Cuba to stop the "instability." This plan has several steps.

¹² Judge Morcom notes that she has visited Cuba on two previous occasions under the auspices of the NLG, both over twenty years ago. Since the subject of the 2007 research exchange was Cuban labor and employment law, union structure and functions, as well as working conditions and workers' rights, she felt that with her many years as an administrative law judge with the Michigan Department of Labor, Workers' Disability Court, and as a former trial judge in the area of labor and employment disputes, as well as discrimination claims, she would benefit from learning more about the contemporary experience of the Cuban workers and trade unions in a socialist society.

First, there is the tightening of the economic blockade against Cuba. This is seen as an attempt to destroy Cuba economically, through restrictions impacting the family relationships between Cuba and U.S.

Second, the U.S. State Department included Cuba on its list of the worlds' violators of Human Rights, along with Venezuela. They have also included Cuba, without a shred of justification, on a list of countries smuggling children, to justify its policy of aggression.

Third, in 2004, Bush came up with a new program to assist in "freeing" Cuba (which she called the "annexation" of Cuba). The purpose of this plan (also discussed by Guillermo Ferriol, above) is to expedite the end of Fidel Castro's government. In it, the U.S. mentions avoiding Cuba's constitutionally mandated succession by eliminating all of the current governmental officials, the revolutionaries in office. The Bush administration speaks of returning property to the former owners. They speak of privatizing education, health care, social security and creating a new police force. They say they will teach Cubans how to organize elections and to amend the Constitution and protect the environment. All of this would be performed in Cuba by one Caleb McCory, an official of the State Department who has been designated as "Commissioner for the Transition of Cuba."

Another step in the plan to create "stability" was placing additional restrictions on Cuba, including the cruel policy that Cubans living in the United States can only visit families in Cuba once every three years. The U.S. is freezing Cuban bank accounts and transactions all over the world. In order to overthrow the government of Cuba, she related that the Bush Administration has implemented over 80 measures to tighten the blockade, but Cuba has witnessed a failure of the plan. The economy in Cuba has recovered slowly every year, but the U.S. is still attached to the failed policy. Nevertheless, within the U.S., the debate is increasing. Many non-governmental organizations (NGOs) and sections of the Miami community are calling for movement towards normalization of the relationship with Cuba. There are a number of proposals before the U.S. Congress at this time. For example, Congressman Charles Rangel has called for a lifting of the blockade against Cuba totally.

Bush has said that he will veto any legislation changing policy towards Cuba. Democrats in Congress are not sure if they have the votes to override a veto, and of course, Cuba is not a priority issue for Congress as a whole. However, there is a debate ongoing about Cuba, people are calling for a change, and that is positive. Ms. Vidal said that in fact, the U.S. is the one that is isolated. She believes that Cuba and the U.S. might, at a given point, live together in peace. This conflict began 200 years ago and at some point, according to the speaker, rationality might impose itself.

For further information on the travel restrictions and their impact on Cubans please refer to the following:

Family Travel to Cuba (www.cubamer.org),
Trade and Agricultural Sales (www.uscuba.org);
Religious Travel, and
Educational Exchanges (www.lawg.org)

Summary of International Conference by Dean Hubbard (United States)

At the conclusion of the international conference portion of the event, NLG delegation coordinator Dean Hubbard attempted to synthesize a core message from the panelists and presentations. Together, the presentations made a persuasive case that the spread of neoliberal policy has impacted the social security and labor rights of workers in many countries throughout the hemisphere. This is true in a general sense as well as in the specific areas of the growth of the informal sector, declines in union density, the exploitation of migrant and immigrant workers, limits on pensions and maternity benefits, privatization, deregulation, loss of national culture, and erosion of the internationally-recognized rights such as freedom of association and collective bargaining and the abolition of child labor.

However, the presentations also suggested that, under certain circumstances, workers and their advocates can succeed in protecting and even expanding their economic human rights. These circumstances include the following: First, that the human rights recognized by international law provide a basis for building a global movement towards labor solidarity. Second, that lawyers should constantly struggle to make the law serve workers' movements and unions should struggle to serve workers, not the other way around. Next, solidarity and resistance can be used to prevent the undermining of progressive governments. Finally, that it is important for labor to work closely with other social movements to fight against discrimination, for equality and for the health of workers and our environment. Social movements throughout the hemisphere, applying these criteria, are increasingly succeeding in achieving state power through electoral processes and making broad legislative and social changes intended to institutionalize and codify workers' economic human rights.



Photo by Fran Schreiber

III. Field Research

The Province of Cienfuegos, in its stark geographical contrasts to Havana, afforded the delegation an opportunity to enjoy the rural countryside, and at the same time, through our visits to workplaces, schools and union halls, to imbibe the strong spirit shared by the Cuban people since the triumph of the revolution. However, our ingestion of this heady mix of compassion and solidarity began in Havana, at a very special school.

A. Hogar Castellana Medical Center **By Laurie Burgess and Joan Hill**

The field research associated with the 8th bilateral meeting of labor lawyers from Cuba and the United States began in Havana with a visit to the Castellana Special School, which offers treatment of youths with developmental disabilities. In treating these youths, the School and its professional care-givers acknowledge that it is important to deal not only with the needs of the students under their care, but also to address the needs of the families from which these students come, and to address societal issues as well. The School aims to increase the quality of students' lives, to give families appropriate feedback regarding the students who attend the school, and to educate the community to accept the students and acknowledge their contribution to society.

Between 2001 and 2003, Cuba undertook major research regarding the mentally impaired. The study was instigated in response to Fidel Castro's visits to such Schools around the country and his interest in the needs of these individuals, and in attempting to assess the cause of mental impairments. Specifically, the study attempted to ascertain (1) biological and/or

(2) environmental causes of mental impairment. During this study, 366,884 homes were visited. Information was also gathered regarding the different levels of impairment - from “elementary” to most severe levels of mental impairment. The study indicated a rate of major impairment -- including the deaf and blind – of 3.3/100. This is a very low rate of impairment compared to world-wide statistics. With respect to all mental impairments, the rate of impairment is approximately 1.25/100.

The Castellana School was founded in 1963 to develop special education programs for persons with developmental disabilities. In 1964, the School began researching and analyzing the students who were admitted there to assess their specific problem and to develop appropriate education for them. The students are also assessed for medical treatment and for other basic needs. In some instances, the staff determined that some students were misdiagnosed, *e.g.* in one instance, a student was sent to the School based upon a psychological disorder, but the School’s staff later ascertained that the student was in fact suffering from a behavioral disorder. Therefore, assessing the student – physically and mentally – is an important part of the School’s intake process.

The School decided to develop a positive “treatment” approach; instead of over-protecting students, the staff encourages students to participate in different types of activities depending upon their age and stage of intellectual development. The students are considered integral parts of society – with equal rights, and equal opportunities – as all others. The goal of the School is promote each individual’s development of self identity, and identity within the community.

This School currently has 312 students; 110 of them board at the school either due to social problems, because they are orphans, or because their parents have decided that it is best for them to reside at the School. The remaining 202 students attend as “day” students, and return home at the end of the day. The School has 227 staff members, which includes physical therapists, doctors, psychologists, nurses, social workers, care-givers, teachers, music and art instructors, etc. Students are accepted into the school as soon as the impairment is detected; thus, the School encompasses students from 6 months old and up. Although students typically travel to school from home between the ages of 6 and 18, as of 18, the students reside at the school. Additionally, the government pays for mothers to learn about how to care for their mentally impaired children; thus, any time that a mother spends caring for her mentally impaired child is acknowledged and compensated work.

With respect to the School’s goal of increasing students’ quality of life, the School strives to offer:

- (1) the optimum level of health care; it has immediate access to a pediatric hospital as well as a surgical clinic;
- (2) pedagogical support: it provides training for students in fundamental areas of life, striving to encourage students’ independence;
- (3) support appropriate social relations;

(4) to assess the students' possibility of and prepare them for working; and

(5) to assist them in developing use of leisure time, by participating in creating art, music, dance, or other artistic endeavors. These events are supported by the Cuban Red Cross.

In evaluating the effectiveness/satisfaction with their program, the following results were reported as outcomes related to the students' learning:

Care of personal needs:	80%
Care for social needs:	83%
Environmental orientation:	77%
Communication:	75%
Use of leisure time:	75%
Ability to work:	100%
Return to the Community:	63%

The Health Care Workers National Union organized and represents the student workers at the sheltered workshop, located within the School. The students participate in union activities at work and in the community.



Photo by Dean Hubbard

Students at Castellana School performing for our delegation.

The School was proud to report that their students have, in the past, participated in Special Olympics. We were also invited to a dance performance by some of the Schools' students. The students dressed in various costumes, and performed a variety of traditional Cuban, Latin American, and African dances. The students were extremely proficient, and were very proud of their accomplishments. We also observed students in a large art room in which

they were making various crafts (dolls, plates, straw hats) which are later sold. We did not see the student sleeping areas, cafeteria, or medical facilities. However, the students appeared happy and were very affectionate and warm toward us, and toward the staff that were caring for them at the School.

B. Meeting with Provincial Trade Union Leaders¹³

As part of the project, delegations regularly meet with Provincial trade union leadership, and the 2007 delegation was no exception. The first night in Cienfuegos, the delegation was welcomed by the leadership of the provincial unions. Delegates were updated on the different resolutions proposed and passed at the CTC National Congress held in September 2006, and treated to an analysis of the role of the trade union movement in Cuban society.

The CTC was founded in 1939. Since the revolution in 1959, important changes have taken place in the trade union structure. The CTC approved of the leading role of the Communist party in Cuban society, while the Communist party respects the independence of the CTC. In principle, the CTC and its trade unions are not part of the State apparatus. They have their own leadership and are not governed by any State authority. According to this analysis, the State does not control the activities of the unions, and does not take action regarding any legislative or other measure affecting workers without first considering the criteria of trade unions and the CTC. At the same time, the CTC and its unions defend the interests of the State with regard to economic development. Trade unions are established at every work place, and a national trade union is connected to every industrial sector. Currently, there exist nineteen national unions:

- National Union of Agricultural and Forestry Workers
- National Union of Chemical, Mining and Energy Workers
- National Union of Civilian Workers of the Armed Forces
- National Union of Commercial, Gastronomical and Service Workers
- National Union of Communications Workers
- National Union of Construction Workers
- National Union of Cultural Workers
- National Union of Education and Sports Workers
- National Union of Food Workers
- National Union of Health Workers
- National Union of Hotel and Tourism Workers
- National Union of Light Industry Workers
- National Union of Merchant Marine, Port and Fishing Workers
- National Union of Metal and Electronic Workers
- National Union of Public Administration Workers
- National Union of Science Workers
- National Union of Sugar Workers
- National Union of Tobacco Workers
- National Union of Transportation Workers

¹³ The information in this section was gleaned from that meeting, as well as an historical analysis of the CTC which was provided to delegates at the CTC national headquarters in Havana.



Photo by Fran Schreiber

C. Cooperative Farm: Empresa de Cultivos Varios: La Horquita by Jasleen Kohli and Mark Schneider

The delegation had to opportunity to visit the agricultural enterprise, “La Horquita,” in the northern section of the Province of Cienfuegos. We met with the Economic Assistant Director, and the Human Resources Department Director. Union officers also joined the meeting in progress.

The directors reviewed for us the three forms of farming in Cuba: (1) state-owned farming, (2) cooperative farming, and (3) the peasantry model of production. The workers in the first two sectors are members of the Agriculture, Livestock, and Forestry Workers Union. As noted above, this union is part of the provincial and national CTC.

In the state-owned model, the guidelines for production are set centrally by the government. The production is geared towards providing for the “family basket,” i.e. the basic needs of the family. Workers’ salaries are linked to their outcome (or production). The means of production, such as land, tractors and other equipment, are supplied by and belong to the state.

Under the cooperative model of farming, workers come together to form a Board of Administration. Production is still directed towards satisfying the family basket. The cooperative does not own the land; rather the land is leased from the state. However, the workers own the means of production, the resources and the outcome.

The peasant form, which is the third model, is organized under the National Association of Small Farmers. They also aim to satisfy the family basket. However, under this model, the worker owns the land, the means of production, and the crop itself.

Before 1959, most land was owned by only a few large landowners. In 1959, after the revolution, initially, there were only state-owned farms and peasant farm. Later, a law was passed to give title of land to the peasants who were working on it. This land was subsequently taken by the government which was then able to create larger farms. In 1993, during the Special Period (after collapse of Soviet Union), a law was passed enacting the Basic Units of Cooperative Production (UBPC), which formed the newer cooperative model of farming. Under this new model, different families who owned small plots of adjoining land were able to bring them together and share up to 50% of the profit among members of the cooperative. The cooperative receives an advance of money from the government. They also get insurance to cover any losses caused by weather or emergencies. If the crop fails totally, the members still get something from the advance and insurance.

At La Horquita, as at other agricultural enterprises, there are facilities to serve the workers. The farm enterprise appears to encompass the entire village. There are areas within the farm enterprise for recreation, sports, health care, banking, etc. The workers all receive free health care, even once they retire. The union organizes excursions and social activities. There is also a worker training/education center, where workers can receive free education (see Section D below). This is part of the national policy to bring outreach education to communities, since the nearest University is 60 kilometers away and it is difficult for people to attend due to the distance and travel time needed.

Conditions of work are established in part by collective bargaining. The contract has the details of production. Safety issues, like how to handle dangerous fertilizer for potatoes, are in the contract. If new issues arise, then the contract has to be amended. The contract establishes a budget for gloves, masks, coats, boots, etc. There are safety regulations and medical tests in place pursuant to the union agreement. At la Horquita, there are monthly union meetings where labor issues are discussed, including grievances, production plans, and health and safety measures.

Agricultural production goals are set nationally. These goals are first discussed at the local level by farmers, who meet and survey the land to estimate what could be produced. Once these goals are set, the amount of production cannot be changed. Excess production is sold to markets and fifty percent of the profits are given to the workers.

Wages are set nationally and are not subject to collective bargaining. The minimum wage for farm workers is 250 pesos a month. This is a subsistence wage, but workers receive free housing, health care, education, and basic food staples. The average worker at La Horquita earns 450 pesos a month, or less than \$20.00 per month. With incentives, some workers can earn more than this average amount.

D. Agricultural Training Center by Brian Roberts and Danielle Weeks

As noted above, La Horquita includes a separate training and education center. Duniel Chavez, the center's lead technician, guided the group on a tour of the facility. The center sponsors courses and training programs for farm workers, their families and members of the community. The center was initially destroyed during Hurricane Denise but thanks to assistance from a Canadian NGO, the center was rebuilt. The center's training program is part of Cuba's "Universalization of Teaching" initiative which seeks to bring university and college level training to local communities. Throughout Cuba, universities have worked with local enterprises and unions to sponsor courses and training that are accessible to workers and their families in every area of Cuba. This initiative has focused especially on rural areas which may not have a university located close enough for ordinary workers and peasants to attend classes.

The center provides a number of courses and training options for workers including engineering courses, machinery and technical skills training. Courses on safe and effective use of pesticides, and master's level courses in agricultural development are also available. For the community, the center offers computer training and training on preventive measures for disasters. The center also has a laboratory which studies, produces, and manufactures such chemical and agricultural products as amino acids, hormones, pesticides, and seedlings for the agricultural enterprise and farming cooperative.

After visiting the training center, we walked over the "production area of the farm", or nursery. Techniques for grafting plants for greater production were presented. It was reported that flowers were also produced for sale to the community. Plants such a guava, mango, avocado were displayed. We were shown the irrigation system used in the production area of the farm. In response to questions to the workers, it was reported that an "overseer" keeps track of the production levels.



Photo by Joan Hill

E. Visit to National Association of Innovators and Inventors (ANIR) Joan Hill

On Thursday night, March 16, we met with many of the local and provincial union leaders, and a panel of social and workplace innovators at the House of Innovation Workers and Inventors. ANIR was created to impact the national unions, and all unions are linked to this association for technical creation. Their function is to respond to problems in the worksites, in the areas of production, quality and services, and offer innovative solutions to workplace issues.

For example, in a particular section, a problem is identified. Thereafter, a group or team of workers is created to create or innovate a response or solution to the problem. After the revolution, for example, there were a number of technicians who left Cuba for the United States. This left the factories without technical specialists, as well as the resulting shortage of parts for particular industries. Therefore, industries had to fabricate certain products – basically by telling workers to build their own equipment, make their own parts, and create solutions for themselves. Machinery was “re-invented” as groups of workers created their own solutions. In 1973, the Secretary General of the CTC officially created ANIR to provide technical assistance to all sectors in the country.

Specific questions were then asked of the panelists. A question regarding the impact of the blockade on health care delivery was posed to a doctor working at the local university clinic. He stated that as far as drugs and equipment are concerned, Cuba is on a “black list” and does not have access to medication or medical equipment. The patents on many of the world’s prescription drugs are owned by U.S. companies. Drugs produced by U.S. companies, with patents, cannot be produced by companies from other countries. Because of the blockade, Cuba is not able to purchase these products. Cuba must therefore purchase medication in other countries through “diplomatic friends” at extremely inflated prices. The same situation exists

with medical equipment. The German company Siemens donated equipment to a hospital in Cienfuegos, but since the spare parts were made in the U.S., the equipment was “useless.”

The doctor further reported that after the Dengue fever was introduced into Cuba by the CIA in 1981,¹⁴ the country needed insecticide and fumigation equipment. Attempts to purchase from U.S. companies and subsidiaries headquartered in other countries were thwarted. Finally, several months later, the necessary equipment and chemicals were purchased through a European enterprise at a higher cost. Another example was x-ray and other equipment developed over the years. Routinely, according to the speaker, Cuba is denied access to this equipment.

In the 1980’s Cuba began to develop its own pharmaceutical and biotechnology industry for peaceful means in order to satisfy the needs of Cuba and other countries.¹⁵

The blockade also impacts the education system in Cuba. We were assured that the blockade made all educators in Cuba “innovators,” from replacing chalk to creative ways of strengthening the spirit of the teachers. According to one speaker, now conditions are better and in both education and health care, the workers are able to preparing the young children with the values that made it possible to defend the ideas of Jose Marti.

¹⁴ Questioning this representation, the author researched whether there was confirmation of the introduction of the disease into Cuba by the CIA. At the website <http://www.internationalist.org/biowarfareagainstcuba0503.html>, a summary of various biowarfare programs against Cuba is reported, including the report that in 1981, the U.S. introduced a virulent strain of dengue fever in Cuba, as a result of which 273,000 people on the island came down with the illness and 158 died, including 101 children.

¹⁵ In 2005, the delegation visited a pharmaceutical plant outside of Havana where vaccines and other medicines were being produced.



Photo by Joan Hill

F. Carlos Rafael Rodriguez University by Esmeralda Osby and Ashwini Sukthankar

This is a twenty seven year old university located in the Province of Cienfuegos. The school has four faculties, or areas of education, and 1157 students at the University itself. Additionally, the University has branches which reach in to the eight municipalities in the province. These branches have an enrollment of approximately 8,400 students. There are over 300 professors who have among them 71 doctorates, and 85% of the faculty has at least a master's degree as well.

The four faculties at the main university are social sciences, economic sciences, industrial engineering and mechanical engineering. The law school is contained under the faculty of social sciences. The branches in the municipalities have additional faculties and career choices.

Within the Social Sciences Department, the students study, and can earn degrees in Law, English, Social and Cultural Studies, Psychology, and they will soon be implementing a program in History.

With regard to the law school itself, there are 91 full time students enrolled at the main University, with a total of 3000 law students in Province of Cienfuegos. Of these students, 243 are from 37 different countries.

Law Students.

Students in Cuba have a similar education track of those in the United States as children. They begin with one year of preschool. Then six years of elementary, three years of junior high



Photo by Fran Schreiber

Judge Claudia Morcom comments on large percentage of female law students

and three years of high school. After high school, if the student wants to continue their education, they can take entrance exams to the various universities. If they pass the exam they are enrolled. However, even if they do not pass the exam there are ways for the student to achieve higher education.

The students are given information regarding the various careers throughout their educational life. That way, once they have completed high school, they already have an idea of the type of career they would like to pursue. The Cuban government does make the decision as to how many of each the different careers are needed each year, and the students are encouraged to help fill in the necessary fields.

A potential law student meets with various professors and current law students prior to beginning their education. They also complete a test. Once they have been admitted to law school, they are tutored regarding a variety of subjects, most important being a foreign language.

A student's law education begins immediately after high school. It is a five year program. During the first year, the student is given almost no choice in the classes they must take. They are required to take political, cultural, ideological and economic classes. The second year continues the required courses with a focus on the theoretical areas of law. Between the third and fifth year, the student continues with the required courses but receives much more practical training. Additionally in the third year, the students review civil law, in the fourth year, criminal law, and by the fifth year they have an idea in which field they would like to specialize in. After graduation, the students must complete two years of social service after which they may pursue their career as they see fit. After all, there is "only one justice in Cuba."



Photo by Joan Hill

Raul Hodelin, Secretary for Havana Province CTC

G. Workers Social Club – Havana

by Joan Hill

In Havana, there are 12 “social clubs” for members of the various CTC-affiliated unions. We had the opportunity to interact with provincial leaders of the unions in Havana at the Metal and Electronic Workers Club. There are 20,000 members affiliated with this club, which provides leisure activities including access to game rooms, computers for all ages, massages, sports facilities, beach front, library, and event hall for all of the members of the union within Havana Province.

The hall is not operated for a profit. Members are charged only the “cost” of services, and can pay for those services with pesos. The Director of the club indicated that in the spirit of trade unionism, this previously “whites only” club was taken over after the Revolution for all the workers, who have been free to use it since that time without racial bias.

Members are selected within their workplace, based upon criteria established by the union. Outstanding workers are given the opportunity to go to the Social Club. Every two years, the selection criteria are reviewed so that more workers can rotate into the selection process.

When asked whether the facility was accessible to disabled workers or wheel chairs, the Director honestly acknowledged that in Cuba, it has only been in recent years that accessibility issues were addressed, and that not enough has been done yet to solve this problem. In new buildings, and those being restored, accessibility is being included in the design; however in current buildings, unions need to engage these issues, so that the clubs can be used for training programs for all workers. One of the union leaders in the audience represented that unions are now researching accessibility strategies through the civil engineering programs at the universities. This research will determine how to eliminate barriers in work place and other buildings. New modes or forms of architectural will have to be created to eliminate barriers in the work place.

A member of our delegation asked about the “appearance” that workers in the tourist sector have greater income that those in production sections (compared to the U.S.). In response, it was reported that for unions and workers in Cuba, the primary problems is the “criminal blockade” that has existed for the past fifty years. In trying to minimize the effects of this economic war, Cuba was forced to look at ways to generate capital. One approach was to open the economy to foreign investment and joint ventures. Currently, over 1.5 million workers are linked to the tourism sector, which offers higher incomes. One approach recently taken by the CTC to address the resulting inequities was to negotiate an agreement that no additional enterprises would pay incentives in the “convertible” currency which is pegged to the value of the dollar (CUC). The number of enterprises that offer such incentives has been capped, and any future payments will be made in the national currency (pesos) as opposed to the convertible currency (CUC).

One “tourism worker,” Maggie, our guide, spoke to the issue of the income of tourism workers. She explained that workers in this sector give part of their tips to the health care and education sector, and give donations to the children in hospitals. Their shared tips are also used to pay for medication which has to be brought in from other countries. The same system applies to dock and longshore workers who also get incentives in hard currency, and then contribute funds to the health care programs.

It was acknowledged that education and agricultural workers, for example, do not have access to tips or hard currency. It is essential, according to the union leadership, to increase the pensions and salaries of workers in those sectors. The most recent salary increases, implemented in 2005, raised salaries for all workers. A study is under way to recommend further increases. The CTC plays an active role in addressing policies of inequality generally, not just issues of salaries and compensation, and specifically in identifying and seeking to rectify any governmental policies that continue to promote inequities in any manner, according to the union leaders.

Conclusion

by Dean Hubbard and Joan Hill

The research project of NLG L&E Committee was undertaken to investigate the reality of workers' rights in Cuba, with the express purpose of educating our colleagues, our clients and ourselves on this issue. We cannot help but see our role as labor lawyers and workers' rights advocates as moving labor, in all its forms, towards international solidarity. Our experiences in Cuba have given us a strong sense of responsibility to advocate in both our personal and professional lives to end the trade embargo of Cuba, which harms workers and unions in both countries. We remind ourselves that the international policies of both the AFL-CIO and the Change to Win Coalition now encompass global solidarity, and advocate a global labor movement. Participants in this delegation see elimination of the blockade against Cuba as an important aspect of the creation of that movement.

For some members of our delegation, this was their first chance to visit Cuba and participate in this research project; for others, participation in the 2007 delegation represented one more step in the larger struggle of understanding Cuban realities, and working towards ending the blockade and other restrictive policies toward Cuba. This includes taking the lead to correct the misinformation from the U.S. corporate media and other sources regarding Cuba.

Cubans view work as a key arena for the advancement of humanity. This was made clear to us not only from the positive, constructive environment created by workers at the Castellana school, but from the penetrating questions posed by faculty and students at the University, the many ways ordinary workers have innovated to help their country survive the rigors of the special period, and from the frank conversation with union leaders at a formerly all-white private beach club which has been converted to a social space for workers and their families.

The U.S. delegation represented to our Cuban and international compatriots the best our workers' rights movement has to offer, both in the variety of vital, cutting edge work participants are doing, and in our diversity in terms of race, age, geography and points of view. Moreover, if real cross-border trade union solidarity means respecting social and cultural differences, working independently of U.S. foreign policy, demanding restructuring of the international economic order, and pursuing labor standards through independent systems of enforcement not controlled by developed countries,¹⁶ participants in the 2007 research exchange embodied it.

In 2008, we will return to a bilateral research format, to be followed by another international event for the 50th anniversary of the Cuban revolution in 2009. We invite you to join us in our research!

¹⁶ Bill Fletcher, Jr., *Globalization Labor and Justice*, 8 WorkingUSA: The Journal of Labor and Society 3, 268 (2005); David Bacon, *Will a Social Clause in Trade Agreements Advance International Solidarity?* Z Magazine, January 2000, <http://www.zmag.org/zmag/articles/jan2000bacon.htm>.



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