



**Report of the United States Delegation to the Eighth International Conference
on the Role of Unions and Labor Lawyers in Protecting
Social Security and the
Fifteenth Bilateral Research Exchange among
Labor Lawyers, Trade Unionists, Neutrals and Scholars
March 8 - 16, 2014**



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

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Introduction

"To be human is something more than to be awkwardly alive: it's to understand a mission, to ennoble it and complete it . . . People go into one of two camps: those who love and build, and those who hate and destroy." Jose Martí

In March 2014, one of the smallest L&E Cuba research delegations became one of the most honored, as three veterans of the exchanges (Joan Hill, Dean Hubbard and Mark Schneider) were formally recognized by the Cuban trade union movement's central body (CTC) for "your solidarity with the people and the trade union movement, your valiant support over more than 15 years in combating media policies against Cuba, and in divulging the reality of Cuban workers and unions."

The small but seasoned group of labor lawyers, spurred by curiosity about all aspects of the ongoing economic reforms and increase in forms of non-state employment (such as co-ops) in non-strategic sectors (such as tourism and gastronomy) brought the work of the delegation to a new level. These changes, which are spurring dynamic growth in everything from the taxi system to the quality of the "paladares" (non-state restaurants), have been accompanied by a spirited national debate, led by the trade union movement, on the rights of workers in the growing non-state sector.

Staying in Havana, the group began its research by meeting with Cuban lawyers and learning about their daily life and the practice of law representing workers and trade unions. Meetings with the General Secretary of the CTC, labor lawyers, labor court judges, representatives of the progressive organization CENESEX (the Center for Sex Education, which advocates gender and sexual identity and orientation equality), as well as a visit to an organic urban agricultural coop (where we enjoyed arguably the best meal of the trip) kept the group on the constant go.

The two-day international conference on the defense of labor rights brought together roughly 300 lawyers from South, Central and North America, as well as Europe. Members of the U.S. delegation presented papers on labor and climate justice, the future of card-check/neutrality, just cause, and the rights of unions organizing in the South—highlighting the recent election at Volkswagen in Chattanooga, Tennessee. The other international delegates were as keenly interested as we were in debating and discussing the meaning of the ongoing economic reforms in Cuba. The conference, which was co-founded by the NLG L&E and the UNJC seven years ago, has grown to become a major international event.

The L&E delegation will continue its study of the realities of workers in Cuba next year. Contact Dean Hubbard at deanhub@gmail.com, or Joan Hill, at johill@usw.org to get on the list for 2015. A copy of the full 2014 Report is posted at the L&E Committee's website, <http://www.nlg-laboremploy-comm.org/>. As usual, this report reflects the impressions, and in some cases the opinions, of the authors and is not comprehensive. Each delegation is unique to itself and the participants bring to the project their own points of view and interests. 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.

Field Research

Meeting Between U.S. and Cuban Labor Lawyers

By Mark Schneider

This was a candid exchange of information between members of the National Lawyers Guild Delegation and the Labor Lawyers from the CTC and the Cuban Bar Association (Union Nacional de Juristas de Cuba, or UNJC), some of who have had a 15-year history of working together. Guillermo Ferriol, the co-founder of these exchanges, who is now the President of the Labor Law and Social Security Society of the UNJC, facilitated the meeting. Cuban participants included Karin Martinez, the Director of the Labor Law Clinic (Bufete Colectivo Laboral) in Havana, Georgina Cambet, Secretary of the Board of the Cuban Labor Law Society, Elio Valerino, the Legal Director for the CTC, and Jose Carbonel, former President of the Labor Law Society of the UNJC. Additional lawyers came in as we met, many whom have been doing this work for as long as we have been travelling to Cuba.

Sr. Ferriol said that have been a number of recent economic changes in Cuba – and that more are coming. There is a need to improve the Cuban economy. These changes have many social and labor impacts. There has been a national debate about the best way to improve the economy and still maintain the social accomplishments of the revolution. Additionally, the recent international economic crisis has affected Cuba. The U.S. boycott of Cuba still has a strong negative impact. Many imports come from Asia, at a great cost in shipping.

Cuba has to restructure the state sector of the economy. It is too big to be efficient. Smaller enterprises can make independent decisions without needing time-consuming permission from above. Co-ops are being expanded from the agriculture sector to other sectors of the economy, such as the service sector, transportation, and construction sectors. There is an obvious learning curve involved in such a major transition.

Currently, there are 450,000 licensed self-employed people in Cuba. The government still has a role in the most important sectors of the economy. The Labor Code is being modified to reflect the changes in the state and private sector. Before the 1990s, 85% of trade was with the Soviet Union and Eastern Bloc countries. It was a moment of severe crisis when the Soviet Union collapsed. The worst of that crisis is over, but the effects still linger. There have been poor economic decisions made in the past. There has been corruption. There has been crime. These are not general, widespread problems.

The government wants to put unused land into production. It has given land to farmers to produce more food. For agricultural co-ops, there is no tax on the first year's crops. The co-ops and private farms are allowed to hire their own workers. As private co-ops in agriculture and other sectors hire workers, the labor relations have been changing rapidly.

Because these changes are so extensive, Cuba needs a new Labor Code. The changes in the Code have been an ongoing process, involving years of dialogue between the government, workers and the unions before the changes are implemented. The new Code needs to protect workers and still allow for economic growth.

A new law has been passed allowing private individuals to buy and sell cars. There was a way to do this before, but it involved a complicated bureaucratic process. Now, it can be done by transferring title with a notary. Also, now, for the first time, people can sell or transfer houses using a notary. This is bringing in a lot of money to Cuba. We asked a question about the cost of new cars. New imported cars are a luxury. They are very expensive because of a large import tax. This is done to raise revenue for the government to use for public transportation. The new law allowing buying/selling of automobiles has resulted in many workers assuming the job of taxi driver, and a substantial increase in the number of 1950s model American built vehicles on the streets of Havana.

The government understands that it must unify the two parallel currencies – the CUC (which is tied to the value of the U.S. dollar) and the peso, or moneda nacional (24 pesos = 1 CUC). The dual currencies are a remnant of the economic crisis of the 90's. They create a problem with international trade and bookkeeping in general.

There are new laws on foreign investment. Law 77 from 1975 is too old. Cuba needs to incorporate new management methods. It needs access to and to be responsive to the expectations of the international market.

We asked a question regarding the pay for labor lawyers. As in the U.S., where the lawyers are retained by the union they are also paid by the union. Jose Carbonel said that in other cases their individual clients pay the lawyers a small fee. It is a small percent of the salary that the individual worker earns. Normally, it ranges from 55 pesos (about \$2.30) to 115 pesos (about \$4.80). A Cuban lawyer receives five years of University preparation, studying a general law curriculum. Any specialization takes place on the job, after law school. Lawyers must study and pass rigorous post-graduate exams to be recognized as experts in specialized fields (Maestria).

In 1976, the law clinics like those formed by the Cuban labor lawyers were started to fill the social function of representing workers in labor disputes. Profit was not an objective. Most services were provided through a union at no cost.

One area or type of case routinely handled by these practicing attorneys relates to layoffs, given the reallocation of work from the public to the non-state sector. There are 200 different employment activities now in the private sector. Each laid off worker receives six months of unemployment benefits. Retraining is available. Other available jobs are suggested. There have been about 1.5 million workers transferred to the non-state sector since the economic reforms began. Layoffs are not according to seniority; they are based on the ability and skills of the worker. Also, attitude is a factor. There is a workplace committee with management and the union that selects the workers who will be laid off. However, the administrator of the enterprise makes the final decision. There is protection for laid off workers. They can appeal a lay-off to the judicial body in each workplace (the Grass Roots Labor Justice Board, or OJLB). We were told that management vs. workers winning these cases is about a 50-50 outcome.

It is a big challenge to retrain workers to do different jobs. To work as a self-employed person in the private sector (as opposed to a co-op), a person needs to obtain a license. They need

to contribute to the Social Security system. Three basic payments are required for the self-employed: 1) the cost of the license, 2) Social Security payments, and 3) personal income tax. If a private business has employees, it must also pay the taxes for its employees. Collecting taxes has been a problem. There is no tradition in Cuba of paying income taxes. If a private business does not pay taxes, it can lose its license.

In response to another question, we learned that, in the past, labor lawyers only worked for individual workers, unions or for businesses. Now, lawyers can work for co-ops or for foreign enterprises. A worker has the right to representation at an employment law proceeding. The lawyers in the labor law clinics cannot refuse to represent a worker. They give a free consultation and explain the possible outcomes of an appeal. However, the lawyer can counsel the client regarding their chances of success and try to negotiate a settlement of the dispute. Ultimately, the worker does have the right to a hearing at the labor court.

The Cuban unions have other functions beyond representing individual workers. They negotiate collective contracts with each enterprise or employer. All of the terms of employment, except for the amount of pay, are negotiable. Also, there is no law either permitting or prohibiting strikes. The unions try to identify and avoid problems prospectively. The unions respond to the demands of their members.

We asked the Cuban labor lawyers to describe some of their cases. One lawyer discussed a case where his client worked as a sailor for a foreign company. The sailor was injured on the job. The lawyer is trying to get compensation for the worker. Another lawyer represents older flight attendants. The company is trying to make them retire as flight attendants. The company has offered other office jobs, but the flight attendants like their jobs. Aviation has certain physical requirements for flight attendants for safety reasons. The company is saying that these women, who are over 55, no longer have the physical skills that are required. The lawyer is trying to negotiate a fair settlement.

Another lawyer discussed a case in which workers for the phone company, ETESCA, were being dismissed for lack of respect to a supervisor. The workers refused to do work originally assigned to another work crew, in addition to their own work. The other crew did not do its job. The workers argued with the supervisor that it wasn't fair to make them do this additional work. The workers were angry and aggressive. They lost at the OLJB. They finally won at the labor court because they had reported the misconduct of the other work brigade and were punished for this. They got their jobs back, with back pay.



Members of U.S. delegation with Cuban labor lawyers at UNJC.

Meeting with General Secretary of the CTC

By Richard Rosenblatt

We met with CTC Secretary General Ulises Guilarte De Nacimiento at their national headquarters in Havana Cuba. He spoke briefly about the comprehensive debate concerning a new Labor Code. This new Labor Code is prompted by a changing job market. He explained that the changing job market is caused by two rising types of employment models -- self-employment and non-agricultural cooperatives. Self-employment is a growing area of independent non-State workers, and according to Guilarte de Nacimiento they are important as they provide 30% of the revenues for local governments.

Guilarte de Nacimiento estimated that in 2 years, 1 in 3 workers in the Cuban job market will be part of the self-employed market. He told us that 57% of the self-employed are presently members of the CTC. This includes both owners and employees. As the General Secretary explained, CTC has a new set of challenges to convince owners and employees of the need to join the CTC. The Labor Code protects employees of the self-employed by providing minimum rights for self-employed workers, including required written contracts. The owner of the self-employed business is required to sign written contracts with each employee that guarantees the employee's wages and hours and is enforceable in court. With free health care and social security also guaranteed, the CTC must convince workers in the self-employed area the value of joining the CTC, a challenge they have not faced in state employment.

Guilarte de Nacimiento spent less time discussing non-agricultural cooperatives. These co-ops are purely voluntary as the workers vote on whether to become a co-op. Presently there are 270 non-agricultural Co-ops. (As an aside, our first meal in Havana was at a restaurant where

the workers had just voted to form a cooperative, which our server had decidedly mixed feelings about). In the end, Guilarte de Nacimiento frankly stated that there are many still unanswered questions about protecting workers as these new employment models develop and reshape the Cuban economy.

At the end of the exchange, the delegation was honored with a reception and recognition of our 15 years of solidarity with the CTC and bi-lateral meetings. Specifically recognized were Dean Hubbard, who started the Cuban/US meetings in 2000 after meeting Guillermo Ferriol, Joan Hill, who was participating in her 13 delegation in as many years, and Mark Schneider, who has attended a similar amount of joint meetings with the CTC.



Meeting with the Director of the North American Division of the Cuban Institute for Friendship of the Peoples (ICAP)

The meeting took place in ICAP's offices located in Havana. Following a personal introduction by each of the delegation members, we provided a brief explanation of the labor law related work each of our delegation members do and offered an overview of the US trade union structure and worker related law. The Director provided us with information on the background and activities of ICAP, which currently interacts with over 200 organizations worldwide with over 100 of those located in North America. ICAP has offices throughout the Cuban provinces to allow solidarity organizations the opportunity to build solidarity with Cubans across the island.

The Director thanked the NLG and its various projects for their long-standing and committed activities in the efforts to build solidarity between the people of Cuba and the US. He also discussed other groups with long and rich histories supporting Cuba, such as Pastors For Peace and the Venceremos Brigades. We also discussed efforts in the legal field as well as in other arenas for building solidarity. Education about Cuba, its development and progress, particularly current changes, continues to be vital, as does the need for material aid as well as support for Cuba in the face of the Blockade and US prosecution of the Cuban Five.

The Director also discussed Cuba's efforts to show its solidarity with other countries, focusing on Cuba's efforts in the health care area. From sending doctors to Haiti to training new doctors from all over Latin America as well as from the inner cities of the US, Cuba is an example of the positive results that can be attained from universal free education and universal free health care.

In the end, the Director emphasized that notwithstanding the friendship between the peoples of the US and Cuba, the need was paramount for education of people in the US as to the blockade--its illegality under international law, its absurdity in light of the political and economic reality of today's world and the hardship it causes to the Cuban people, their families in the US as well as to US business that must forego business with Cuba.

Meeting with Labor Judges at UNJC

By Robert Schwartz

A panel of three labor judges, all women, explained their duties. In many cases, they decide whether workplaces decisions followed correct procedures. The speed of the process is important. A hearing is held within 10 days of a request. Decisions are issued within five days of the hearing.

Higher courts deal with issues such as permanent layoffs or changes that affect a worker's status. In cases of discipline or termination of a workers' contract, judges can analyze the reasons for the administration's decision, and enjoin the administration from future similar action.

An example of a case concerned a musician who lost his license because he used inappropriate lyrics. The judge only reviewed the procedures, not the decision itself. The panel discussed the issue of strikes and explained that there is no law forbidding strikes in Cuba but that strikes do not occur because workplace problems are always resolved through other methods. We learned that precedent plays no or only a minor role in legal cases and lawyers do not cite prior rulings to bolster their arguments. This is based on the Spanish and French or Napoleonic model.



Sign at agricultural coop:
Revolution is: Emancipating ourselves for ourselves and with our own efforts.

**Visit and Exchange with Workers at
Organic Urban Agricultural Co-op**
By Dean Hubbard

Our delegation visited an urban agricultural co-op in a municipality in the southwest part of the greater city of Havana. Enabled by recent economic reforms, this successful co-op is branching out beyond agriculture to do food processing and residential construction.

We were greeted by a host committee that included a representative of the agricultural ministry for the municipality of Marianao (where the co-op is located), a representative of the national agricultural union affiliated to the CTC (which represent the co-op's workers), a worker representing the local union, a lawyer representing the union, and the Administrator (head manager) of the co-op. This co-op is of a type called a UBPC (Unidad Básica de Producción Cooperativa), which was established during the "special period" of economic crisis following the collapse of the socialist bloc in Eastern Europe.

Marianao is one of the 15 municipalities in the city of Havana. It has 129,000 inhabitants. Its economy is mainly industrial, and also relies on urban agriculture. The municipality has 90 hectares of arable land, 79 of which are used for agriculture. The co-op we visited is one of two UBPCs in Marianao, one of which is a credit and service co-op. The municipality has a total of 6 organic gardens.

UBPCs, which came into being from the subdivision of large state farms, take two forms: One in which the workers are the owners of entity, and the other (called a credit and service co-

op) in which the workers own the land and share the risk for credit and finance. In this latter type of UBPC, the workers still have tenancy of the land even if the coop folds.

The agricultural co-ops, especially the UBPCs, are models for the new forms of co-ops that are emerging in other sectors of the economy.

The Administrator of the UBPC explained that it is small—only 4.2 hectares, of which 3.35 are cultivated, on 2 farms. Green leaf vegetables are the main crop, which the UBPC sells both to the populace at large and for “social consumption” to hospitals, education and other public health facilities. The sales for “social consumption” are a priority for UBPC, according to the Administrator, as “people in hospitals and kids need to eat and this is our responsibility.” Produce is also harvested and sold at a roadside stand on site. It is a “highly effective” organic garden.

The UBPC currently employs 50 workers. “Everything” has to be approved by the Workers’ Assembly and the Board of the UBPC. The Assembly of all the workers elects the Board members. The Board members are not elected for a term, and can be changed by the Assembly at any time. The co-op has internal Bylaws, which set forth the workers’ rights and duties. The elected Board, not the administration, establishes the Bylaws.

For salary, each worker is paid an advance against future production of 350 pesos at the end of month. Profits, or “stimulus,” are distributed on the 10th of every month, with the 350 peso advance deducted from what each worker is paid in stimulus. The amount of stimulus a worker receives depends on the results of his or work. For example, if a worker misses work without justification, he or she has a deduction from their stimulus. If a worker misses 3 days work without justification, he or she can be taken to the Assembly, and the Assembly can vote to remove him or her. The average monthly stimulus above the 350 peso advance is between 1000-1200 pesos, which would make the average monthly income of 1300-1500 pesos significantly higher than the norm. There is no ceiling on compensation, as the stimulus depends on the results of production. Many of the workers are from the immediate area.

We asked why many of the workers appeared to be older people. We were told that, despite the higher than average compensation, young people prefer to seek work in Havana proper, where they believe there are more opportunities; and that the population itself is aging. There is a program to train youth for careers in agriculture.

We discussed crop rotation, which tends to be short term. The co-op makes “fast money” from lettuce (during the hot months) and bok choy. There are several “semi-protected” areas in which the seedlings are shaded from the hot Cuban sun by netting. They hope to cover all the cultivated area by the end of year. The co-op grows mostly vegetables, some fruit for self-consumption (such as plantains and guayaba), and coconut for sale. Marigolds and oregano serve as a biological barrier to insects. The fertilizer is a combination of composting from old crops and cow manure.



New laws that allow greater flexibility enable some of the UBPC's policies and activities. They are awaiting funding that has been promised by an NGO to build a "mini-industry" which the Administrator says will make the UBPC stronger. The new industry will process food and will buy food from third parties to produce other food products such as garlic paste, etc. They expect to begin operations of the mini-industry in 2015.

In addition, the UBPC is expanding into residential construction, as they have been asked by the municipal government to repair and build houses for people who need them. The UBPC will be buying construction materials and hire a workforce to build houses in Marianao. The way it works financially is that the UBPC is paid by the government, uses the money to buy construction materials and hire a workforce, and keeps a portion of any profit. Many of the houses in the municipality are in very poor condition, so the idea is to provide better housing to people. The entire investment comes from the government. The UBPC is taking on this additional responsibility without abandoning their main goal of producing food.

The majority of the home jobs will be repairs. Where the UBPC builds new homes, the new owners will pay in installments. People without means will be provided homes for free. This new industry was made possible by a new law passed after Hurricane Sandy, which established subsidies that allow people to purchase construction materials from supply stores if they wish to do their own repairs or to receive a credit from the state to hire a licensed non-state entity to do the work.

This is how the housing subsidies work: Since a single mother with two kids on a low salary (for example) can't pay for construction, the government will provide a subsidy, credit or provide a home for free. A small interest rate is charged for credit. The subsidized price of a small new home is 12,000 to 13,000 Cuban pesos (3 to 4 thousand CUC). People who want to do their own work can pay subsidized prices for construction materials in a hard currency store; for example, a bag of cement is .60 of a peso. The money collected from people who can pay subsidizes people who can't. The stores that sell construction supplies in moneda nacional

(pesos) came into being after Sandy. Before that, it was difficult to find construction materials other than in a CUC store.



Lunchtime discussion of Cuba's economic reforms at agricultural co-op

Over a lunch prepared from the co-op's bounty, we discussed Cuba's planned economy. Our hosts argued that the planned nature of the economy allows the state to allocate resources to the most needed places. The priority is health, education and social security; together, these areas account for 60% of the state's budget. These priorities, it was argued, foster acts of solidarity. As an example, our guide Jesus said he and other parents have banded together to pay for repairs to their children's school, which are being subsidized by the state. Another priority is building new water pipe infrastructure and repairing leaks (35-40% of the pipes are leaking) to improve running water.

Our hosts argued that without the U.S.-imposed blockade the economy would be much better. When we asked for an example, we were told that the state-subsidized milk that is provided to children up to age 7 must be bought from Asia and sent to a third country before being brought to Cuba, which raises the price. We asked about purchasing the milk from a nearby country, such as Canada. Our hosts answered that in theory Cuba could purchase the milk from Canada, but in practice Canadian suppliers aren't willing to sell to Cuba, because the extraterritorial sanctions imposed by the US sanction foreign companies that sell to Cuba. We asked about domestic production. We were told that Cuba can't currently produce enough milk domestically because a large number of cattle died during the "special period," so there aren't enough cattle for industrial meat and dairy production. The country is re-engineering its cattle industry for milk production. Research is being done to prepare to produce the milk Cuba needs organically, as traditional industrial production is less economically viable and ecologically sustainable. But this can't be accomplished on the necessary scale for at least another 10 years, and even this date is optimistic given the impacts of climate change. Nevertheless, milk is a priority in the economic planning of the country. The government has increased subsidies for milk production by farmers--previously the stimulus provided was "not good." Also, the industry is being reengineered for on site pasteurization and distribution—it used to be sent out.

In short, the visit to this UBPC provided a very revealing glimpse of the concrete measures Cuba is taking to adapt its economy to the world in which it finds itself, while attempting to maintain and even deepen its commitment to socialist principles of equity and worker participation.



CENESEX representatives Maya Alvarez, an attorney, and Mayelin Gonzalez Rodriguez

Meeting with CENESEX
(Centro Nacional de Educacion Sexual)
By Matt Rinaldi

Our delegation had the opportunity to visit the Havana office of the Centro Nacional de Educacion Sexual, known by its Spanish acronym CENESEX. We were greeted by specialist Mayelin Gonzalez Rodriguez and a lawyer who works with the center, Maya Alvarez. They explained that CENESEX was formed in 1988 to continue the work of national sexual education in Cuba, which had been established by the Cuban Women’s Federation (FMC) after the revolution. Its initial focus was on basic education concerning reproduction and birth control in the school system, with a focus on openly discussing and preventing violence in sexual and romantic relationships.

These educational tasks soon included outreach to all of Cuban society. The Center provides counseling on issues ranging from erectile dysfunction to counseling on all sexual issues, including sexual preference and sexual identity. Every November the Center sponsors a series of Days of Nonviolence Against Women.

Cuba was faced with the medical mystery of HIV when AIDS arrived on the island, primarily a heterosexually transmitted variety carried by Cuban troops returning from Angola and battles against South African apartheid forces in the 1970’s. CENESEX works on AIDS prevention with the Cuban Ministry of Health and every September 4th sponsors a Day of Sexual

Health. More than 8,000 Cubans infected by the HIV virus are currently receiving medical treatment and the majority has stabilized.

The Center has also become a major advocate of LGBT rights and has entered the legislative arena with the leadership of Mariela Castro, the Center's Director (who is the daughter of Cuban President Raul Castro and FMC founder Vilma Espín). In December of 2013 CENESEX advanced legislation in the National Assembly to ban anti-gay workplace discrimination. After what has been described as a very heated debate, the Assembly passed labor legislation stating in part, "Every citizen able to work has the right to obtain employment without discrimination based on skin color, gender, religious beliefs, sexual orientation, nationality or any other distinction harmful to human dignity."

The legal struggle for gay marriage will be more difficult. While CENESEX sponsors a Cuban Week Against Homophobia every May, anti-gay sentiment remains deeply rooted in Cuban society. The task is complicated by the fact that the Constitution of Cuba, ratified in 1976, states at Chapter 4, Article 36 that "marriage is the voluntary union agreed upon by one man and one woman in order to have a life in common." Change therefore requires not just legislation, but an amendment to the Constitution.

Our visit to CENESEX included a tour of the winning artwork from a national poster contest on the themes of struggling against homophobia and violence against women. While the common theme was No to Violence and Hatred, one of the winners depicted a rainbow house with the words, "Home is Love, Respect, Inclusion-- for a family free of Homophobia and Transphobia." CENESEX is a concrete example of positive changes taking place in Cuban society.



International Conference

The Eighth International Conference of Labor Lawyers and the Trade Union Movement began with opening remarks from leaders of the sponsoring organizations. Antonio Raudilio Martin Sanchez of the American Association of Jurists (AAJ) called the conference a “counterattack again neoliberalism” organized in part to make the truth about Cuba known across the Americas, in which “we are allowed to renew our hopes and strengths” within the network of jurists created by the conference.

Luis Ramirez, President of the Association of Latin American Labor Lawyers (ALAL), reminded the participants of the origins of the conference, designed to promote our values within a framework that meets the needs of our respective working classes. ALAL was established 14 years ago, not just as an academic organization, but one that believes it is necessary to change the reality of working class and defend its principles. The Latin American social charter developed by ALAL reflects a new model of labor relations, one that rejects the tenants of neoliberalism.

The coordinator of the Guild delegation, Dean Hubbard, noted that the U.S.-Cuba bilateral exchange was observing its 15th anniversary, with the first in 2000, and that the bilateral exchanges were the crucible in which this international conference originated. He commented on the opportunities the conference provides to exchange with lawyers from other parts of the globe, and said it continues to represent the development of a progressive movement in all participating countries.

Finally, in his opening remarks, Carlos Pompa, Chair of the Latin American Association of Labor Judges, reminded the conference attendees that we make choices each year to support the working class and attend the conference designed to recognize those rights. We need to prove the effectiveness of our work in defending those rights. Judges are required to be impartial—but they can still be neutral, respecting the law and drawing the line at some point. Judges need to “be brave and work together to have the wings of justice blow freely.”

The next two-days were filled with presentations and panelists speaking on topics related to workers and trade unions in the Americas. Following are summaries of many of those presentations.

Special Intervention

Ulises Guilarte de Nacimiento (Cuba)

The conference proper began with an address by Ulises Guilarte, the newly elected Secretary General of the Cuban Trade Union Central, known by its Spanish acronym as the CTC.

Mr. Guilarte focused his talk on the significant changes taking place in the Cuban economy, with the shift to increased collectives and self-employment, which will allow new enterprises to employ workers who are not merely friends or relatives. This shift, which is seen as critical to the growth of the Cuban economy, brings with it the challenge to ensure that equal distribution of wealth remains a central concept in Cuban society.

The challenge is highlighted by the opening of a special industrial zone at the Mariel port, a facility which will move much of international shipping from the harbor in Havana and which will allow foreign capital to play a controlling role within that zone.

Mr. Guilarte emphasized that Cuba will remain a socialist society, and that the challenge to the CTC will be to unionize those workers who become employed at Mariel or in the new small enterprises run by self-employed Cubans. Under the current Labor Code union membership is not mandatory, challenging the CTC to establish standards and contracts that will motivate Cuban workers to join the CTC in increasing numbers.

The address closed with a call to conference participants to confront these new changes and to help develop ideas which will strengthen Cuba as a state committed to socialism and the Cuban working class.

**Rightwing Attempts to Criminalize Employer-Union
Cooperation Agreements in the US**
Jonathan Harris, (United States)

In a recent U.S. Supreme Court case, *UNITE HERE Local 355 v. Mulhall*, a Florida-based union and casino employer faced criminal charges for signing a neutrality agreement to set the ground rules for a union organizing campaign. The National Right to Work Legal Defense Foundation (NRTWLDF) sued the union and employer, claiming that they had committed a felony in violation of §302 of the Labor-Management Relations Act of 1947 which prohibits unions and employers from exchanging “money or other things of value.”¹

In 2004, Hollywood Greyhound Track, d.b.a. Mardi Gras Gaming approached UNITE HERE Local 355 the local hospitality workers’ union, for support with a ballot proposition to license casino gaming. The two parties entered into a fairly typical Memorandum of Understanding (MOU) or “neutrality agreement” in which Mardi Gras agreed to: (1) recognize the union based on a card-check procedure; (2) give the union access to work premises during non-work hours; (3) provide the union a list of employees and their addresses; and (4) remain neutral in the union’s organization efforts. In return, Local 355 agreed “not to ‘picket, boycott, strike, or take other economic action against Mardi Gras,’ and that it would ‘expend monetary and other resources’ to support a ballot proposition favored by Mardi Gras.”

¹ Section 302(a) makes it a crime for an employer “to pay, lend, or deliver, or agree to pay, lend, or deliver, any money or other thing of value” to a labor union that represents or seeks to represent its employees. Section 302(b) makes it a crime “for any person to request, demand, receive or accept, or agree to receive or accept, any payment, loan, or delivery of any money or other thing of value prohibited by subsection (a).” Section 302(b) also makes it a crime “for any labor organization . . . to demand or accept from the operator of any motor vehicle . . . or the employer of any such operator . . . any money or other thing of value payable to such organization . . . as a fee or charge for the unloading . . . of the cargo of such vehicle.” Section 302(c) lists nine exceptions to the 302 prohibitions, addressing, *e.g.*, payments to benefits funds. The penalties for violating § 302 depend on the value of the amount of “money or other thing of value” that was paid, loaned or delivered. For amounts up to \$1,000, the crime is a misdemeanor punishable by a fine of up to \$10,000 and up to a year incarceration. For amounts over \$1,000, the crime is a felony punishable by a fine of up to \$15,000 and up to five years’ incarceration.

In 2008, the NRTWLDF filed suit in the Southern District of Florida on behalf of Martin Mulhall, an employee at Mardi Gras, alleging that the MOU was an illegal “thing of value” under §302. In 2009, the court dismissed the suit based on Mulhall’s lack of standing. In 2010, the Eleventh Circuit Court of Appeals reversed and remanded the case back to the Southern District to determine whether Mulhall had a private right of action and whether the MOU constituted an unlawful “thing of value.” On remand, the Southern District once again dismissed the suit because the MOU was not a “thing of value,” and thus declined to address whether Mulhall enjoyed a private right of action to bring suit.

Mulhall again appealed to the Eleventh Circuit. A two-judge majority of the appellate court ruled that, while “[i]t is too broad to hold that all neutrality and cooperation agreements are exempt from the prohibitions in §302[,] [e]mployers and unions may set ground rules for an organizing campaign, even if the employer and union benefit from the agreement.” And while “innocuous ground rules can become illegal payments if used as valuable consideration in a scheme to corrupt a union or to extort a benefit from an employer[,] an employer’s decision to remain neutral or cooperate during an organizing campaign does not constitute a §302 violation unless the assistance is an improper payment.”

The dissenting judge would have dismissed Mulhall’s suit because the majority improperly inserted an intent standard and—since the Taft-Harley Act “is designed to promote both labor peace and collective bargaining”—the Act “cannot promote collective bargaining and, at the same time, penalize unions that are attempting to achieve greater collective bargaining rights.”

The Eleventh Circuit majority remanded the case to determine whether the MOU had a corrupting intent. Local 355 petitioned the Supreme Court for certiorari, which the Court granted in June 2013. On December 13, 2013, the Supreme Court dismissed the writ of certiorari as improvidently granted. Justices Breyer, Sotomayor, and Kagan dissented, having preferred further briefing on their concerns about Mulhall’s Article III standing, mootness, and the possible absence of a private right of action. In dismissing the writ of certiorari, the Supreme Court seemed to implicitly acknowledge the significant flaws in the procedural posture of the case and the risks of ruling on a case that should have never made its way to our nation’s highest court.

While a minor circuit split now exists regarding whether §302 prohibits some neutrality agreements tainted by corruption and extortion, the practical effects of the split should be relatively minimal. For now unions and employers in the Eleventh Circuit will likely not prevail on motions to dismiss these claims “that entering into a valid labor agreement governing recognition of a labor union amounts to illegal labor bribery.” Instead, those unions and employers will have to wait until summary judgment to have the cases dismissed once it is demonstrated that—as in *Mulhall*—there was clearly no corruption or extortion of the employer.

In the rest of the country, meanwhile, courts will likely continue to uphold neutrality agreements, consistent with a Third Circuit holding that such agreements do not violate §302 and the Fourth Circuits’ dismissal of an almost identical impact suit brought by the same anti-union special interest group behind *Mulhall*, the NRTWLDF.

It is likely that the NRTWLDF will continue bringing these speculative impact cases in the hopes that other courts will go further than the Eleventh Circuit majority's ruling by holding that *all* neutrality agreements are "thing[s] of value" under §302. Though highly unlikely, the ultimate outcome of such a holding could change labor relations as we know it by criminalizing many agreements between employers and unions. For the sake of our profession and labor relations generally, let's hope this does not happen.

Fortunately, we are very far from such an outcome and practitioners should not shy away from neutrality agreements. To the contrary, neutrality agreements and other ground rules for organizing workplaces encourage labor peace and are firmly supported by statutes like the National Labor Relations Act and the Federal Arbitration Act along with numerous court opinions spanning decades. The Eleventh Circuit majority's holding in *Mulhall*, though creating a minor split with its sister circuits, does not constitute a basis to discourage employers and unions from agreeing to neutrality and card check. Moreover, §302 almost certainly does not provide a private right of action to challenge neutrality agreements. Unless the Federal Government decides to prosecute such cases rather than limit its attention to cases that clearly fall within the statute's core anti-bribery purpose, unions in the United States should not fear neutrality agreements.



Are Unions Welcome in the Land of Dixie?

By Joan Hill (United States)

"Land of Dixie" refers to those southern states that were part of the Confederacy during the civil war. These states are also considered "right to work," meaning that union membership is not compulsory, as a condition of work. These states are mostly "red states" meaning they vote republican, and voted for Mitt Romney in the 2012 election.

Labor unions have a rich history of union representation in the southern states of the United States. For example, the United Mine Workers in Northern Alabama, textile workers in parts of Tennessee and North Carolina; sanitation workers in Memphis, who marched with Martin Luther King, Jr.; and in the modern era, teachers, auto workers in Tennessee, and many

more. But there is one very recent struggle of the United Auto Workers to organize the workers at the VW plant in Chattanooga Tennessee, the fourth largest in Tennessee, which borders on the states of Alabama and Georgia. 60% of the residents are white, another 36% are African American and 4% are Latino. The Volkswagen plant employs about 1500 workers.

VW employs a model of production called a “works council” which includes employee representatives in the determination of the organization. Employee-representation systems are foreign to the U.S. – and arguably illegal under the National Labor Relations Act, the primary law on the issue of union organizing and labor relations. This law, passed in 1935, sought to promote the formation of unions and the use of collective bargaining. The National Labor Relations Board has interpreted this law to prohibit employer-initiated employee-representation systems – what was called a company-dominated union. Notwithstanding this prohibition, workers have been organized outside of the traditional NLRA model requiring a secret ballot vote, awarding the union the right to exclusively represent the workers for purposes of setting terms and conditions of employment.

VW wanted to establish a works council at this plant, elected by all plant employees, making key decisions about how the facility is run. To establish the works council at the VW plant in Chattanooga TN, it was understood that a union would have to be elected to represent the employees. The UAW sought to be the representative of this employee/management council. Local works councils, employee elected members, negotiate with the employer on issues such as plant rules, discharge, work hours and vacation. The UAW would bargain over wages and benefits, but cede to the council traditional bargaining prerogatives such as work rules and training. The plant in Tennessee is the only manufacturing facility that does not have a works council.

The United Auto Workers first tried to establish its “majority status” through cards signed by the employees – card check – and if more than 50% signed, the company could recognize the union and go forward. With the employer remaining neutral in the organizing effort, this paper will explore the outside influences on the free election and when, if ever, the UAW will have another chance like the one handed to it in Tennessee.

VW officials urged employees to participate in the works council. Resistance immediately started with organizations such as the National Right to Work. Several employees from the plant, filed complaints with the NLRB alleging that VW violated the NLRA by providing unlawful assistance to the Union, or by threatening to condition future work at the facility on whether the employees elected the union as their bargaining representative. Charges against the UAW based upon their efforts to obtain card check – signatures of the majority of workers in support of unionization – leading to recognition of the union without an election, were also dismissed. The NLRB concludes that any assistance given to the union was lawful and there were no unlawful threats against employees. VW files a petition for a representation election with the NLRB. Vote scheduled for Feb 12-14.

But this secret ballot election was too much for the right wing and conservative politicians. Outside organizations, and Southern Momentum, a corporation chartered by a local attorney representing employers got into the interference game. These third parties conducted a massive campaign with the sole purpose of conveying to the workers the message that a vote for the union would cause VW to shut down, move, not expand production, and deprive the

employees of work opportunities. Billboards, local newspaper, radio advertisements, op-eds, and town hall meetings blanketed Chattanooga.

The week before the election, Gov. Haslam made his final pitch “We’re trying to be really clear; I think that there are some ramifications to the vote in terms of our ability to attract other suppliers. When we recruit other companies (to relocate to Tennessee) that comes up every time.” A few days later, Senator Bob Corker (R) held a press conference to talk about his ties to VW. His “antipathy” towards the UAW was clear. He stated the union was only in Chattanooga “to extract dues from the VW workers” and the union would adversely affect business in the area and hurt the standard of living in Tennessee because businesses would not want to locate here. He accused the local management of being “muzzled” by the global council board in Germany.

State lawmakers weighed in – Senator Bo Watson who represents this area of Tennessee threatened that no future incentives would be available to VW if the workers voted for the union. “Additional incentives (tax breaks) from the citizens of the State of Tennessee for expansion or otherwise will have a very tough time passing the Tennessee Senate” where members don’t have a positive view of VW because of the manner in which the campaign has been conducted. “Tennessee is right to work” Tennessee is pro-business, “unionization is not in the best interest of Tennessee” The Governor and others will have a hard time convincing our citizens to support anything for VW. Then Rep. Gerald McCormick (R) said “I encourage employees of VW to reject bringing the UAW in the plant and into our community – we welcomed VW to our state and our community – the union was not part of the deal. This had the effect of encouraging VW to look elsewhere, Mexico, to expand production at the plant there.

The secret ballot election starts. UAW tries to counter the Corker statements – the UAW has a positive impact on the economy of the Tennessee – referring to the General Motors plant in Spring Hill Tennessee, about 2 hours away which has been represented by the UAW since it opened in 1990. Corker returns to Chattanooga, holds a press conference and said, “I’ve had conversations today and based on those am assured that should the workers vote against the UAW, Volkswagen will announce in the coming weeks that it will manufacture its new mid-size SUV here in Chattanooga.” This was immediately refuted by the plant manager. Corker responded that the manager had “old talking points” and that his, Corker’s information, was more current, came from “real decision makers” and therefore accurate.

When the votes were counted, there were 712 no votes, 626 yes votes. An appeal has been filed, objections to the election, seeking to set aside the election on the grounds that the third party misconduct created a “general atmosphere of fear of reprisal rendering a free election impossible.” That didn’t stop the political interference. Sen. Bob Corker recently said “I hope that the National Labor Relations Board will understand the magnitude of what they are going to be deciding and in no way will try to muzzle public officials who are community leaders from expressing their point of view.”

There are several legal issues raised by outside influencers? Was this the type of “exceptional case” that would require the NLRB to set aside the election? Did the statements by these lawmakers interfere with the vote and taint the election? Was Corker acting as the agent of VW? If not, he was lying.

Can the south be organized? The 27th Convention of the AFL-CIO in 2013 adopted as one of its top priorities a Southern Strategy that will include a long-term commitment to organize the South. There are several campaigns ongoing, Mercedes Benz in Vance Alabama; Nissan in Smyrna Tennessee and Canton Mississippi -- a very aggressive campaign that has the support from dealerships in Japan, South Africa, Australia, England and Brazil. Student, environmental and civil rights organizations are also engaged.

For the UAW to take hold in Tennessee, and Alabama, and Mississippi at these foreign-owned plants, it will take workers willing to listen to the message of the ministers, the students, and the organizers. It will take the community, the merchants and the media to join the cause. As labor lawyers, fighting for and representing the cause of the worker's class, we know that union membership can bring workers out of poverty; can address the income inequality, and union membership can change the face of the south.

Cooperatives and Labor Law in Uruguay

Sergio Reyes Lavega (Uruguay)

This presentation discussed the historical reality that in Uruguay most cooperatives were focused on the social context or on consumption and not on production. In Uruguay, as in many countries where economic development is stagnant, worker coops have begun to develop in order to provide needed goods and services as well as jobs and income. While the movement grows, the labor law has not developed to consider these changes. The labor law historically assumed that in a coop everyone was an owner; now that coops are growing, they are beginning to have paid workers so the labor law must now change and adapt.

Mexican Workers

The speaker explained that the current president is putting oil production in Mexico into private hands as part of payback for supporting him in election. Government is using their Army to protect these privately held oil fields instead of dealing with violent and serious drug problems. Private enterprise is not taking workers into account. Currently, 52% of workers are below poverty line as 1/2 of working population only has part-time work. The good news is that a new union has formed whose goals are to achieve unity by organizing smaller unions into a larger union, expand activity and educate and organize worker class that now being exploited.

Argentinian Trade Union Model after Judgment of the National Supreme Court

Matias Lanchini and Eugenio Biafore (Argentina)

The judgment under discussion created a change in the trade union movement in Argentina, so that so called minority unions were now allowed. Historically employers or the government controlled most unions. Now unions that are more representative of the workers are the unions that succeed. Currently only 10% of workers are in truly representative unions.

Outsourcing and Trade Unions, Dilemmas and Perspectives

Daniela Muradas (Brazil)

Outsourcing is usually based upon efficiency, as a method to reduce costs of production. There was a restructuring of the way to organize management in Brazil. Production is now centered outside the company to a company for production of particular product or part of the production process. These changes have changed the working class by fragmenting them. These are anti-union practices and limit the union's capabilities.

Racism and other discrimination is created among the workers, which also limits the unions capabilities, and the workers' right to join the union. Outsourced employees come and go. The relationship to human dignity is clear. The employer should have no effect on the organization of workers but it does. Because of outsourcing, unions are created for each activity of the company, contrary to the principle of free trade unions.

Chile for example, permits collective bargaining and the right to strike. But outsourcing diminishes the creation of unions and the ability of the union to respond collectively, decreases the number of strikes and decreases social equality. It goes against solidarity links of the workers and limits the union's capability for collective bargaining. It is acknowledged that outsourcing and disenfranchising affects the union's effectiveness, leading to antiunion attitudes among workers. The ILO condemns hiring workers to end a strike. However, managers try to prevent unionism by using judicial measures and punishment.

Challenges to Trade Union "Unity" by Trade Union Plurality

Alex Santana Novais (Brazil)

Freedom is hard to exercise; it should not be negotiable. Under the Declaration of Human Rights, the freedom to organize a union is provided for. There are 1800 unions in Brazil but they are failing because they don't need to prove they represent the workers to exist. Recent elections where there are 1200 or more workers, only 20 people voted. Most unions do what the government wants. There is no longer a workers' movement. The solution to this problem depends on organizing workers. It is easy to move the plant when workers don't accept the terms. The companies fear that truly pluralist trade unions would bankrupt the company.

After Constitutional restructuring, Brazilian unions have failed—all exist—few work. Demonstrations have been held, people demand health; however, they are not fighting for this right. Workers are no longer acting as a collective unit but instead, as individuals. Unions were "killed" by legislation created by unity leading to better control.

Today's Labor Union Movement Framework in Brazil and its Challenges

Pedro Ferraz Pasos (Brazil)

Sr. Pasos spoke about government interference in union organizing. One limitation is a provision prohibiting more than one union in the same geographic area/territory. Only unions can represent the workers at different levels. Another limitation is on financing union activities

and questionable legality, at different levels; unions should be free to organize but there also must be a contribution from the membership equal to one day's salary.

Unions should be independent of the government. They have Constitutional rights that should be enforced. One step would be to consider the taxation of members. The Union's role is to represent the workers and they now need a new way of financing their activities. If workers are not represented by current unions there is no way to get a new union. It is nonsensical but noteworthy that Brazil has not ratified the ILO convention of freedom of association. This would be an important step.

There are other challenges, the right to create new job categories as well as the stability of the jobs of union leadership. Brazil's unions must address these challenges.

Organization, Mobilization, Social and Union Rights in Columbia

Arturo Portilla Lizarazo (Columbia)

As the head of the Association of Labor Lawyers in Columbia, Sr. Lizarazo commented on trade unionists in Columbia being criminalized and demonized. The economy is doing well but unionists lack social rights. In his country, hospitals are the "passage to death" and two lawyers from his organization have been killed.

The speaker gave examples of the lack of recognition of workers' rights. There is legislation to protect pregnant women; they don't say anything but get fired. A woman was fired, carrying twins, and the Company attorney denied her pregnancy. Flower growers had a problem that there were not allowed in a union and were threatened with dismissal. Workers met in their own homes in order to organize.

The rights of workers are not respected in Columbia; outsourcing is one of the primary reasons. There are rules to protect workers and unions but they are being destroyed. There is no formal contract, businesses are temporary, worker associations/co-ops or simplified societies, independent contractors, and union contracts represent employers not employees. It is the policy of government to violate these rights and outsource the work.

Labor reforms break the traditional unions. Companies don't have to pay for workers' health. Domestic workers have a national union; they asked the government to ratify the ILO convention and accept their union. Farmers don't have minimum labor rights and do have a pension. The right to strike has to be exercised at the general assembly reducing union freedom and leading to inequality. Without union freedom, there is no social security. Now there is a campaign to release the imprisoned leader of the farmers' union, Huber Ballesteros.

**Effectiveness of the Right to Work in Handicapped Persons: A Perspective of
Comparable Law between Canada and Cuba**
by Christine Rousseau, Canada

Ms. Rousseau offered the following information² regarding disabled individuals in Canada and Cuba:

Education: 53% of disabled Canadians obtain a high school diploma but only 13% of them make it to university; 52 % of disabled Cubans obtain a high school diploma but 20% of those go to university.

Employment: In Canada, 40% of disabled individuals obtain jobs, but it was unclear how long they continued in those jobs. In Cuba, 50% of disabled individuals obtain jobs and 88% of those continue in their job. It was noted that, in Cuba, self-employment was increasing and that was helping increase the number of disabled who were employed. Among disabled women in Canada, 36% were able to obtain jobs. In Cuba, 41% of disabled women were employed.

Terminations: In Canada, 44% of terminations affect people with disabilities. In Cuba, there is on-the-job education and accommodation for people with disabilities. In Cuba, the term “disabled” is translated differently than in Canada. For example, if one is confined to a wheelchair but works in a building with an elevator, that person is not considered disabled.

Sex/Gender, a Way of Discrimination in the Workplace
Katia Iliana Cruz Dominguez (Mexico)

Ms. Dominguez began by noting that there are different definitions of sex and gender according to the United Nations. Sex is based on physical features at birth. Gender is more based on socio-cultural tradition, psychological and economic factors and is related to conduct (e.g., how one conducts oneself or what one does).

Legal equality would mean that one has the same individual rights regardless of sex or gender. A denial of those rights would be considered discrimination. There is both direct and indirect discrimination. An example of direct discrimination would be when one is told “No, we need a man (or a woman) for this job.” From the perspective of Ms. Dominguez, sometimes women are under-protected by the country’s laws, but in some countries, there is too much protection (e.g. women can get sick leave for childbirth but a man wouldn’t get sick leave for that purpose) that may be based on the cultural role of women to stay at home with a newborn or sick child.

In the workplace, the employer has the right to select candidates for jobs. That employer doesn’t necessarily select the person with the best qualifications but, rather, may prefer a different candidate because of that person’s looks. This was given as an example of indirect discrimination.

² It was unclear from the presentation where the statistics regarding the education levels and employment of disabled individuals were obtained.

New Measures in Cuba

Guillermo Ferriol Molina and Vivian Hernandez Torres (Cuba)

This panel mirrored many of the things that we learned during our dialogue with CTC Secretary General Guilarte de Nacimiento. About 2 to 3 years ago Cuban economy started to change. New measures were created to restructure the economy. Certain sectors are still run solely by the state-- education, health care, communication and culture. Other aspects of economy are open to these non-state run models – self-employment and non-agricultural cooperatives. Traditionally, a business needed authorization from a state agency to make decisions about use of resources. New businesses now have more independence in making those decisions. As CTC Secretary General Guilarte de Nacimiento had explained to us, this report made it clear that the new Labor Code will protect workers in these new types of businesses.

Working Together for a Future that Works: Unions, Communities and the Transition to a Clean Energy Economy

Dean Hubbard (United States)

Mr. Hubbard began by noting the scientific consensus that we must drastically reduce fossil fuel emissions and transition to a clean, renewable energy economy immediately, in order to prevent the effects of climate disruption on the planet and human life from becoming irreversible. Because the economies of the developed countries, especially the United States, have been the leading contributors to this existential crisis for the planet, they bear a special responsibility to take bold action to make this transition. However, this crisis effects us all, and we must work together to solve it. If we fail to act boldly now, hundreds of millions of workers around the world will suffer permanent job losses as a result of damage to infrastructure for water, energy, transportation and public health, as well as important economic sectors such as manufacturing, agriculture, and tourism.

Workers in the global south have already been disproportionately harmed by climate disruption, suffering greater harm much sooner than workers in the developed north. However, in the United States, workers have recently suffered through consecutive years of record heat, devastating hurricanes and forest fires, which scientists agree have been made much worse by the climate crisis.

The world's working people, acting through the International Trade Union Confederation, have unanimously adopted a resolution calling for a fair, ambitious and binding international climate change agreement and just transition policy aimed at reducing greenhouse gases and dependence on fossil fuels while improving people's living standards. The ITUC has expressed "strong support" for precisely the dramatic emissions reductions called for by the world's scientists.

The transition is already well under way. Economic forces, activism and competition from clean energy are all nudging economies around the globe away from fossil fuels, including coal, oil and natural gas, and towards renewable sources of energy such as wind, solar and geothermal. However, sharp reductions in fossil fuel emissions means that workers in fossil-fuel dependent industries are facing significant job losses. These job losses, in a sector with high

union density, are occurring at a time of continuing economic crisis, with rapidly declining union density, persistent structural unemployment, a decline in real wages, the replacement of real jobs by informal work, and a widening chasm of inequality between the wealthiest 1% and the rest of us. At the same time, the extraction and burning of fossil fuels by transnational corporations has robbed countries of the global south of their resources and poisoned their people, air, water and land.

Both the climate and economic crises have common sources in neoliberal policies of the last 35 years. The only way to solve them is to address both crises simultaneously with bold vision and strong action for healthy and sustainable communities. If done properly, retooling economies to prevent irreversible climate disruption could lead to a massive expansion of good jobs, providing one of the biggest opportunities for growth of the labor movement over the next generation.

But a market-driven transition will not create a fair and just transition to a clean energy economy. Just the opposite: history has shown time and time again that market-driven transitions punish workers and other vulnerable populations. We can only make a fair and just transition to a clean energy future if we make a profound change, beginning right now, from a global economy dominated by those who defy any consideration of the public good, towards a more sustainable economic future based upon fairer, more equitable, healthier societies.

We need bold vision and action that really addresses the huge economic problems facing people in places suffering from economic depression and unequal economic development. The challenge of implementing this ambitious and vital vision is made more profound in my country by the destructive tactics of an anti-union, climate science denying faction, funded by billionaires like the Koch Brothers who have gotten rich from burning fossil fuels.

However, the scope of the challenge is precisely what calls us to press for bold action. We must act boldly, not only because decisive action is needed to end climate disruption and build a fairer economy with good jobs for all, but because it is often darkest before the dawn. The greatest social achievements often arise from social crises in which the proponents of change face fierce and often violent resistance from proponents of the institutionalized status quo.

To get past the false dichotomy that we can't both have good jobs and end climate disruption, governments must commit to making large scale public and private investments in climate resilient infrastructure, energy efficiency and renewable energy, targeted to regions and countries that are in the greatest need. At the same time, we must directly face the reality that cutting fossil fuel production will create hardships for workers whose livelihoods depend on fossil fuels, and make investments adequate to support displaced fossil fuel workers.

For the transition to a clean energy future to be fair and just, environmental groups and unions must work together—we must not allow ourselves to be divided by our common opponents. Ultimately, in order for our movements to transform the global economy in the direction of genuine democracy and sustainability, we must build a global social movement with the power to generate policies and funding to transform neoliberalism and create the millions of “climate jobs” that will help us make the transition to a low carbon economy.

**British International Solidarity: Trade Unionism, Conspiracy Laws
and the International Commission for the Investigation of the Cuban Five**
by Steve Ludlam (England)

In his presentation, Professor Steve Ludlam from the University of Sheffield drew attention to the central role played by British trade unions in the UK Cuba Solidarity Campaign's work for the Five, and in supporting the Commission. The Commission took place at the Law Society in London on 7-8 March 2014. It has been the major initiative of the international Voices for the Five campaign. Major UK unions and law firms sponsored the event alongside campaign groups, with hundreds of eminent international supporters and thousands of online 'voices'. See www.voicesforthefive.com. All the major unions and the national federation, the Trades Union Congress, had been instrumental in getting meetings for family members of the Five with the then Labor Prime Minister Gordon Brown and other political leaders, and supporting their speaking tours. Tony Woodley, former general secretary of the giant UNITE union, had visited the Five in US jails. Perhaps more importantly, UK unions had pressed the case of the Five among US unions, with the result that leaders of the USW and SEIU had protested outside of the US embassy in the annual London vigil for the Five, and met US officials to raise the case.

Professor Ludlam noted the common experience of the Five and both UK and US unions in facing the use of conspiracy law. This law, used in the great railway 'uprising' of the 1870s in the US, and in the famous Pullman and Lawrence strikes, conspiracy charges used in the absence of evidence against individuals, as with the Five, had been used as recently as the 1970s in the UK. Six months after the most successful construction workers' strike in UK history, mass arrests of leaders took place. Three were imprisoned for conspiracy to intimidate, despite not a single witness being able to identify any of the three as having committed any offence. A campaign continues to this day to have the sentences annulled. See www.shrewsbury24campaign.org.

Independent Research

Primary School Visit

By Marti Houser

In the state of Colorado, I work for the teachers union, the Colorado Education Association (CEA), so I was naturally curious about public education in Cuba. I had expressed to Jesus, our guide, my curiosity about how the Cuban union operated at the school level after having heard earlier from the labor judges that, at the most worksites across the country, labor-management issues were first dealt with by workplace committees and that they, as labor judges, would deal with such disputes if one of the parties brought a court action based on the situation.

On March 11, 2014, our guide Jesus arranged for me to go to his daughter's elementary school, where his wife is a teacher. The school was much like many American schools located in urban areas – it was large, multi-level, and in need of a coat of paint and other repairs. We met in the teachers' lounge with the Principal, the building union representative (a teacher with 19 years of experience at the school who was selected by the staff the last 6 years to represent them), and the English-Spanish teacher, along with the guide providing translation.

The Principal was very welcoming (something not common in Colorado schools, where the Principal usually recognizes there may be a legal problem whenever a CEA attorney visits the school), as were the teachers. Everyone was very open and forthcoming about how their process worked. They explained that, if a problem arose, the Principal and the building representative would meet to see if they had all the information and if there was a simple resolution to the problem. I asked them for examples and the most interesting one they gave me was this: a custodian was hired and paid as a half-time employee but ended up working a full time schedule. The parties resolved the matter by making the employee whole without having to go through an appeal. That was surprising to me because in Colorado, the presumption on the part of the school administration would have been that the employee knew or should have known that he shouldn't have been working full time and, as a result, the matter probably would not be resolved informally. That did not seem to be a presumption at this school or perhaps the resolution came about simply because the employee did work the additional hours.

All in all, my impression was that Cuban schools work in very similar ways as American schools except, of course, in many American schools, there is no union representative who can advocate for the employees and move the dispute to a higher level if it cannot be resolved at the building level.

University of Havana: Making a Case for Organizing Adjunct Faculty

By Joan Hill (United States)

Prior to the start of the research portion of the delegation, Joan Hill, an attorney working in the Education Department of the United Steelworkers, met with a Cuban Attorney who is also an adjunct faculty member at the University. After discussing potential collaborations, Ms. Hill received a tour of the University Campus.

The University was founded in the 1820s in its current location, on a hill overlooking the Vedado section of the City; the first university, however, was located in what is now Old Havana, named San Geronimo, in 1728. The University has a museum of natural history and anthropology, both of which were open for tours. The University also was hosting the 45 Caribe Games, which is an intra-university competition between the various colleges and faculty. The College of Law was actually playing a baseball game against the College of Economics during the tour, and student of both were quite enthusiastic about this traditional rivalry. The library, computer lab and law school were covered in the tour.



The Great Steps at the University of Havana

The two of us discussed the process to become a lawyer in Cuba—five years of study at the University level, followed by three years of obligatory “social service” after graduation. In her case, Seida was assigned to work as a prosecuting attorney. This position involved both prosecuting enterprises for violations of national law, and civil rights cases in which her office actually represented victims of civil rights violations. Seida personally serves as an adjunct in the College of Finance where she teaches a course on the introduction to law.

We discussed a collaboration project of research to study the phenomena of adjunct professors for future conferences (in Cuba and hopefully in the United States). The project would consider the need for unionization of adjunct faculty in the United States, and will involve a comparative analysis of a defined problem, what elements from USA and Cuba can be taken on account in order to make a case for the necessity for unionization of adjunct professors?

The objectives of their collaboration will include (1) the history and backgrounds of adjunct professors in both countries, including the density of union-representation; (2) comparison of chosen institutions (University of Havana and Duquesne University-currently being organized by the USW) and legislation; and (3) propose alternatives to the problems identified. The two intend to report their results at the 2015 International Conference, to include the history and backgrounds of adjunct teaching. For example, Seida reflected upon Resolution 128 of 2006 by the Ministry of Superior Education addressing faculty choice related to tenure

and evaluations. This resolution requires the evaluation of faculty and a process for appeal and upgrade of job classification.

Elements of future research include contracts of employment, policies and working conditions related to pension, insurance, health care, administrative assistance, salary, job security, and others that may be identified during individual research.

Conclusion

By Dean Hubbard

This 15th annual NLG labor research delegation delved into the economic reforms that are having a sweeping influence on the organization and character of work on this socialist island. Cuba faces substantial challenges to its traditional commitment to workers' rights, especially in the (hopefully temporary) upheaval caused by the transfer of a large proportion of the workforce from state to non-state employment. An additional challenge is posed by the proliferation of non-state entities whose survival depends on turning a profit, if workers are treated as items of cost that eat into that profit. If, despite the efforts of the CTC, the changes in this direction result in substantial conflict between owners of private businesses and employees, Cuba would be well advised to consider statutory protection of the internationally recognized right to strike.

However, we saw a great deal of evidence that Cuba's commitment to the redistributive and egalitarian principles of socialism remains firmly intact, especially in the widespread deployment of democratically governed worker-owned co-ops and the new subsidies for home repair and new home construction. In addition, providing people with opportunities to earn additional income provides hope for improved individual livelihoods, additional services to meet peoples' daily needs, as well as additional liquidity to meet the costs of Cuba's universal and free education and health care and generous social security programs. The CTC's role in substantially slowing and ensuring better-planned transfers of workers from the state to non-state sectors, and in fighting for self-employed persons to have the same labor rights as other workers, bodes well for the relative autonomy of the labor movement as the economy evolves towards a more mixed, though still decidedly socialist, model.

The outdated and illegal U.S. blockade remains a substantial impediment to the improvement of the Cuban economy, and continues to harm Cuba's people, especially its children. The L&E Committee calls on the Obama Administration to immediately take the broadest possible Executive action to end all non-statutory elements of the blockade, and calls on the people of the United States to elect a Congress that will repeal the laws imposing this immoral and unwarranted half-century of punishment of the Cuban people. In addition, we reiterate the Guild's call for the Administration to end the punitive captivity of the three remaining Cubans who remain imprisoned in the U.S. after a trial that both the international community and an 11th Circuit panel found to violate fundamental principles of justice.



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