



**Report of the United States Delegation to the  
3<sup>rd</sup> International Conference of Labor Lawyers  
and the Labor Movement  
in Defense of Labor Rights and Social Security  
and the 10th Bilateral Research Exchange among  
Labor Lawyers, Trade Unionists and Scholars**

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

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## TABLE OF CONTENTS

<b>I. Introduction</b>	<b>1</b>
<b>II. International Conference</b>	<b>3</b>
<b>The New Law of Social Security in Cuba</b>	<b>3</b>
<b>Older Adults, Public Policies and Social Services in Bogotá</b>	<b>5</b>
<b>Attacks on the Rights of Working Class in Spain</b>	<b>7</b>
<b>Protection of Workers from Subcontracting</b>	<b>8</b>
<b>Cuban Labor at Fifty: What about the Workers?</b>	<b>8</b>
<b>Trade Unions in a Global Crisis</b>	<b>11</b>
<b>Defending the Rights of the Disabled</b>	<b>13</b>
<b>Some Considerations about Labor Justice</b>	<b>16</b>
<b>Deregulation of Labor Rights in Italy</b>	<b>16</b>
<b>Using International Labor Rights to Challenge New York Ban on     Strikes by Public Sector Workers</b>	<b>17</b>
<b>The Effect of U.S. Labor Policy on the Rights of Undocumented     Employees to Freedom of Association</b>	<b>20</b>
<b>Considerations about Migrant Workers</b>	<b>21</b>
<b>Latin American Integration</b>	<b>23</b>
<b>III. Interchange with CTC</b>	
<b>The Training System of Cuban Trade Unionists</b>	<b>24</b>
<b>The Rights of Workers in the Education Sector</b>	<b>25</b>
<b>The Health Care System in Cuba</b>	<b>27</b>
<b>The Role of Labor Lawyers in Representing Cuban Workers</b>	<b>29</b>
<b>IV. Field Research</b>	
<b>Felipe Herrera UBPC (Basic Units of Cooperative Production)</b>	<b>30</b>
<b>Carlos Rodriguez Primary School</b>	<b>32</b>
<b>Psychopedagogic Center</b>	<b>33</b>
<b>CTC Provincial School</b>	<b>35</b>
<b>COMEG</b>	<b>36</b>
<b>Havana Club Rum Factory</b>	<b>37</b>
<b>V. Conclusion</b>	<b>39</b>

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

For the small but mighty U.S. delegation, this was a momentous trip. It was the 10<sup>th</sup> consecutive NLG labor delegation to Cuba, and it occurred during the celebration of the 50<sup>th</sup> anniversary of the Cuban revolution. These milestones were magnified by small overtures by the Obama administration and promising responses by the Cuban government, which gave delegates a sense of possibility that after decades of struggle to end the U.S. blockade of its socialist neighbor 90 miles to the south, we may finally be entering a historic moment in which we see real movement in that direction. Thus, this tenth L&E delegation to Cuba was the first to travel at a moment ripe with genuine possibility for change in U.S. policy. While these hopes have not yet borne fruit, delegates continue to press for fundamental change in the U.S. relationship with Cuba, in the areas of travel, remittances and ultimately the blockade. Delegates also promised to continue their efforts to normalize travel and trade relations with Cuba and to help end the illegal incarceration of the Cuban Five.

The trip began with a two-day international conference, held in Havana, entitled “**In Defense of Labor Rights and Social Security and in Opposition to Neoliberal Policies.**” The conference, sponsored by the American Association of Jurists (AAJ) and the Association of Latin American Labor Lawyers (ALAL), the progressive inter-hemispheric bar associations with which the National Lawyers Guild and its Labor and Employment Committee are affiliated, was attended by labor lawyers and trade unionists from countries including Cuba, Brazil, Argentina, Colombia, Mexico, Ecuador, Great Britain, Spain and a smaller than usual delegation of ten from the United States. Panelists addressed subjects such as the role of the Cuban labor movement in the enormous changes currently taking place in Cuba, protecting migrant workers' rights, the rights of disabled workers, and the rights of contingent workers. The conference sessions as well as informal meetings provided opportunities for cross-border coordination and insight into the strategies of colleagues advocating for workers in a wide range of countries at different stages of development.

As with prior delegations, the international conference was followed by three days of field research, organized with the help of the Cuban Trade Union Federation (CTC). This year, due in part to the devastation caused by three separate hurricanes in outlying provinces, the research involved visiting workplaces and interviewing workers, union leaders, and labor lawyers in the cities within Havana Province, an area covering hundreds of square miles. This research afforded the delegation the opportunity to meet with schoolteachers, health care workers for developmentally disabled children, farm workers, tobacco workers and trade union officers from the Province. Of particular interest was a visit to an education center where rank and file members of the CTC have the opportunity to spend several weeks “in residence” to develop and expand their union skills. Delegates also had a brief voluntary labor experience, planting yucca at an agricultural cooperative. As in the past, our visit was the subject of national news coverage.<sup>1</sup>

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<sup>1</sup> See, e.g., Caridad Lafita Navarro, “El fuerte impacto de la realidad económica en el Derecho Laboral,” *Trabajadores*, February 16, 2009.  
<http://www.trabajadores.cu/news/el-fuerte-impacto-de-la-realidad-economica-en-el-derecho-laboral>

The L&E Committee's Cuba solidarity work continues to take place against a backdrop of harsh economic realities for workers in Cuba, due in part to the U.S.-imposed blockade of Cuba. Our analysis of Cuban labor rights recognizes this reality along with the regulatory environment that restricts U.S. citizens from traveling to Cuba. Notwithstanding these hurdles, the participants built upon the relationships and knowledge established by previous delegations to continue forging a path towards genuine solidarity between the labor movements of our two countries.

As with prior reports, readers should understand that this report reflects the impressions, and in some cases the opinions, of the authors and is not comprehensive. Each delegation is unique to itself and the participants bring to the project their own experiences, views and interests.

## **II. International Conference**

The objective of the conference was to debate a set of topics with the view of mobilizing lawyers and trade unions with regard to the role of the state and its social responsibility to protect the economic, social and cultural rights of working people. This first section of the report summarizes many of the presentations made at this third international conference.

### **Opening**

Antonio Raudilio Martín Sánchez, President of the Cuban Society for Labor Rights and Social Security and Vice President of the American Association of Jurists welcomed the delegates to the conference. Lic. Martín discussed the current global economic collapse as one of the gravest of a series of historical crises of capitalism, which had particular impact on developing nations, Cuba among them, and the workers of the world. He noted that the crisis was compounded in Cuba not only by the blockade, but also by the three hurricanes, which had struck his country in the past year. He expressed hope that the recent gains of Latin American social movements, which recognize the need for a strong role for the state in regulating the economy and protecting workers' social security, have placed the region in a good position to develop its own solutions to the crisis, independent of those who had created it. U.S. Delegation Coordinator Dean Hubbard, in his welcoming remarks, also commented on the global economic crisis, compounded in the U.S. by the continued wars in Afghanistan and Iraq, but joined in the expression of hope that the continuing gains of social movements, which found expression in the U.S. with the recent election of Barack Obama to the Presidency, meant that this conference was occurring at a moment of not only great crisis but historic opportunity for advocates of global workers' rights.

### **Panel Presentations**

#### **A. The New Law of Social Security in Cuba**

#### **C. Esther Criollo Hidalgo, National Institute of Social Security (Cuba)**

A new law regarding social security, effective in January 2009, was submitted to all workers, with 99% of workers voting in favor of the law in over 85,000 assemblies of workers

led by the CTC and Ministry of Labor. Demographics necessitated the changes: a declining birth rate, increasing life expectancy (76 for men and 80 for women, five years higher than the average for Latin America and the Caribbean), and the recognition in Cuba of the need to be attentive to the impact of an aging population on many social policies. Based upon principles of social justice, this new law redefines the fundamental rights guaranteed by the State: first, it assures there will be no privatization of the system of social security. Second, it affirms the principle of universality. Third, the new law expresses a breathtakingly broad conception of “social security,” integrating three formerly separate regimes: provisions to protect workers and their families in any work sector, which Cubans consider the “general” regime of social security; provisions protecting prisoners who may need education in order to be guaranteed a job upon release; and the “social care” regime, incorporating people into society by providing employment, monetary assistance when they have no income, medical care, rehabilitation and medicine, free of charge.

The new law, according to Sra. Criollo, also addresses social services, or programs used to solve group problems, as part of the social care regime. For example, it contains provisions for social workers to visit seniors who live alone to make sure they have enough food, and to work with disabled, to make sure they have more than just monetary support, but are incorporated into society through work. It also provides for pregnancy and prenatal care, and for parents to care for children, by securing job guarantees, the right to reemployment, and maternity leave.

One specific provision addresses lengthening work life, which includes increasing the retirement age at which one is entitled to full retirement benefits, from 55 to 60 for women, and from 60 to 65 for men, or 30 years of service. The speaker claimed that this provision offers respect to the free will of the worker regarding their choice of retirement age. She also argued that it fulfills other objectives: One, to encourage people to stay in their job and increase the numbers of workers, guaranteeing the needs of the people; second, and more specifically, by increasing the salary of workers with over 25 years of service by 10%, it will double the number and increase the quality of services that can be provided by the State.

Provisions for disabled and injured workers were also included in the new legislation on social security. A committee of medical professionals now determines when the worker can return to work or receive a percentage of their income based upon a partial disability. If the injured worker is hospitalized, he or she is considered totally disabled by the medical expert. Injuries are reviewed after two years to determine if the worker has recovered sufficiently to return to his or her former employment, or if some other work needs to be found for the partially disabled worker, or whether the worker remains disabled but will continue to receive their salary. Reincorporating retirees into the work force is also a goal of the new legislation; retirees can go back to work, which permits them to feel useful to society, and allows them to increase their income if there is a job available.<sup>2</sup>

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<sup>2</sup> A copy of Raul Castro’s July 11, 2008 speech on the rationale underpinning the new Social Security law is available on line at <http://www.istockanalyst.com/article/viewiStockNews/articleid/2392483>.

## **B. Older Adults, Public Policies and Social Services in Bogotá**

### **Dr. Oscar José Dueñas Ruiz (Columbia)**

Professor Ruiz presented on the status of public policy and social services for senior citizens in Bogotá. The role of senior citizens in Colombian culture and society reflects the historical events that have affected their status, especially the effect of the insurgency and paramilitaries. The speaker proposed policy alternatives for a transition from the policies that have dominated Colombian society in the last decades to a more humanist policy.

At the outset, Professor Ruiz briefly compared the state of social services for the elderly in Cuba versus that in Columbia. In Cuba, housing, healthcare, social services and pensions are guaranteed and assured for senior citizens. This state of affairs goes to the very nature of a socialist society. There is nothing comparable for the elderly in Columbia.

In capitalist countries on the other hand, like Columbia, except for the situation in a few of the wealthiest countries, the situation for the elderly is precarious. On a national level, in undeveloped countries such as Columbia, the attitude of the government is best described as a savage solicitude. Under policies in a situation where there is a general erosion of the economic well being of the population as a whole, the erosion of health services, housing and employment, in general, falls greatest on those least able to protect themselves; that includes the elderly.

The financial and social situation of the elderly in Colombia has declined precipitously over the last decades. This was part of the general historical decline that has everything to do with capitalist and colonial development. In the traditional cultures in Colombia, the Amerindian cultures of the Americas, the elderly were similar to scholars and wise men. They were the keepers of tradition. They would officiate as priests and were objects of high esteem and respect.

During the European conquest of these Indian cultures, these features of the indigenous culture disappeared entirely. Spanish conquerors imposed on the cultures a tributary system that effectively denied senior citizens any measure of cultural respect or standing. During the entire colonial period, according to the speaker, there was little evidence of any social institutions or social policy directed to senior citizens or the elderly. The exception was in 1872, when the Napoleonic civil code was adopted. It gave some legal standing to the older *pater familiae*, the elderly males. However as to the Indians, the homeless and the poor, they remained barbarians and pawns. In short, any special status and the public respect for senior citizens disappeared at the advent of modern capitalist economy.

In Colombia, by the year 2025, estimates are that there will be over 8 million people above the age of 60. That will be almost 17% of the population. The majority of those persons, namely 63%, will be female. Presently in Bogotá, approximately 9% of the population constitutes elderly person and senior citizens. There are no government guaranteed pension rights. There is nothing comparable, for example, to the social security that exists in the United States, let alone the pension rights that are available to the elderly in Cuba. Care for the elderly, where it exists, is only in the family.

In recent decades, Colombia's families have undergone further disruption, affecting a further the decline in the status of the senior citizens. It's estimated that during the last two decades, almost 5,000,000 Colombians were internally displaced. The government's estimate of this number is, of course, much lower. These were displaced by civil war, drug paramilitaries, and include a significant number of elderly persons. These numbers also include a large number of single parent households.

This internal displacement has disrupted family structures. It has deprived senior citizens of the traditional support that they got from their roles in families. Traditionally, the role of an elderly person in the family was as caregiver, and in turn, they were cared for by their family. Outside the family, the neo-liberal social orientation of the country, the savage solicitude, has made care for the elderly even more problematic.

In 1993, for example, Colombia privatized all health care. There remained a small subsidized healthcare service, SISBEN, but this was available only in some urban areas and only for those in very precarious and dangerous situations. For the majority of senior citizens, lacking financial resources, there is little in the way of healthcare services.

In spite of this bleak picture, Professor Ruiz, has seen some positive developments for senior citizens in Colombia. Among the positive things are signs that senior citizens had begun to organize themselves, concerning their rights. Groups are organizing, making demands on public bodies.

He also sees signs that public and academic discourse has begun to develop, at least conceptually, rules for guidance in social development and public policy for the elderly. For example, internationally, there are social forums such as the Economic, Social and Cultural Rights Convention (CESCR, 1989). This forum has recognized that states have a right and an obligation to respect, protect and guarantee citizens rights. This includes the right to healthcare in all forms and all levels, for everyone without discrimination. This forum also recognizes that health care should be given a preference for the most needy, which would include the elderly. Language of this same sort is expressed in the constitution and laws of Colombia.

Another positive development, according to Prof. Ruiz, is that elderly Colombians have begun to initiate legal proceedings in civil court. These actions are being done en masse. In these legal actions senior citizens are using public law, and are demanding guardianship and protection under the laws of Colombia.

Although promising, these efforts by groups in court, by academic institutions and by labor unions cannot undo the great harm that neo-liberalism has done to Colombia. The catastrophe is getting closer. It is closer still because of the recent breakdown of the world economic markets and the vulnerability of undeveloped capitalist states such as Colombia.

Professor Ruiz believes that the time has come to put forward new municipal norms and public law for the protection of the elderly. These proposals, contrary to current policies, have to be framed with a humanist content. They are important now, at this moment when the world

passes from the breakdown of neo-liberalism towards the formation of a new more equitable and just society.

### **C. Attacks on the Rights of Working Class in Spain Professor Vidal Aragonés Chicharro de Cataluña (Spain)**

Professor Aragonés participates in a large labor law collective in the Catalonia section of Spain. He came to the conference to talk specifically about the notion that worker's rights in the EU were progressive. His first point was that during the 70's and 80's, progressive legislation involving workers rights was the norm. During that time, workers' in the EU mobilized politically on the basis of their class interests, but that time has passed. In the last 10 years, according to Prof. Aragonés, it seems that the labor unions have lost the ability to effectively defend workers rights. Rather, the EU has been creating paradigms and norms in legislation, which severely limits workers' rights. It is known as the Lisbon agenda.

The EU put out a summary of this new agenda in the Green Book of labor rights. Ostensibly, these were new labor rights created to face the challenges of new markets. These new labor laws did not however, reflect the reality of the market.

This new agenda did not address new processes, nor did it create any new rights. The purpose and effect of this legislation was to make labor more flexible and effectively worsen the conditions of labor in Europe. It had nothing to do with labor security or labor rights. It only created the illusion of flexibility for workers. Throughout this program it does not address any issues of labor and security.

The end result appears to emulate the Dutch model for labor relations, where people can work as many as 3 separate jobs at one time. In Spain, 1 out of 3 workers has a temporary contract. Under these temporary contracts, there are provisions that allow only 30 days notice of layoff. Temporary contracts are considered to be important for a company is stressed financially. However, under the present conditions of financial stress, labor legislation dealing with temporary work is an attack on labor rights. Three months ago, the EU issued a new directive dealing with temporary work. Once workers could work for 12 weeks and had the same rights as other workers. That is no more. Now there is no limitation in the EU for probationary work.

Presently, labor legislation permit labors to work up to 65 hours a week. Such norms interfere with the ability of workers to collectively bargain. These new norms also govern the use of non-nationals. They allow the return non-nationals, that is to expel them to their own countries. This conflicts with the guarantee of rights to migrant labor. A migrant laborer in Europe who fails to leave after being expelled can spend up to 15 months in prison.

In sum, Professor Aragonés describes this situation as “absolute wreckage of the state of rights of workers”.

**D. Protection of Workers from Subcontracting**  
**Marina Téllez (ANAD-Mexico)**

This presenter observed that the use of labor contractors to supply workers for employment has increased in Mexico. This practice, according to the speaker, disgraces the nature of labor, as suppliers speculate by buying workers' labor power and selling their labor at lower prices than workers could obtain through legitimate collective bargaining. Mexican federal code defines these intermediaries as illegal. Many unions, however, have taken the attitude of being an accomplice of the labor broker and have not defended the workers. Unions, the speaker argued, should be obliged to prevent this practice through strikes.

This practice takes many forms, including when part of a service is hired out and the employer is relieved of any responsibility, and outsourcing, where an enterprise is hired to perform a function of employment, such as payroll. This practice is a violation of Labor Code of Mexico and many of these jobs are creating temporary jobs where there use to be full time workers. This has created "ghost" enterprises without government control.

The practice is growing and in the Mexican system of industrial relations, the state overlooks this to ensure competitiveness, but also raises the question of whether the law should be reformed. The Mexican Supreme Court has ruled that there is no employment relationship with (and therefore no obligation to) the worker on the part of specific subcontracting agencies. There are conflicts between rulings in the lower courts as to who benefits from the employment (and is therefore the Employer with obligations to the worker under the Labor Code). The larger problem, for our purposes, is rather how trade unions let these rights against subcontracting be taken away.

**E. Cuban Labor at Fifty: What about the Workers?**  
**Prof. Steve Ludlam, University of Sheffield (United Kingdom)**

The paper by Steve Ludlam noted the insistence of the CTC, in its 19<sup>th</sup> Congress in 2006 that, in spite of Cuba's crisis measures in the 1990s, the principal conquests of the Revolution have been preserved, first of all, the political power of the workers. This contrasted with the judgment of many friendly commentators that the Special Period heralded the end of socialism in Cuba. Professor Ludlam characterized Cuba's public service conquests, from the point of view of European political theory, as social democratic. The key to Cuba's claim to socialism was the question of workers' power. So Prof. Ludlam's purpose was to analyze recent reforms of labor relations policy in Cuba, and evidence of union and worker influence, in order to judge whether Cuba's macro-economic recovery since 2005 was being accompanied by a strengthening or a weakening of workers' power, and hence socialism. The paper had two parts: the first considered the significance of the reforms of labor relations; the second considered how far workers continued to exercise power and influence.

After a decade and a half of crisis and restructuring, Cuba recovered its pre-crisis levels of GDP, but not its pre-crisis income distribution, nor in terms of normal working life in many workplaces disrupted by years of energy and material shortages, forcing workers to find other ways to make ends meet. Economic reforms also created a wider range of company forms,

including the ‘business improvement sector’ where productivity was much higher, and a wider range of types of employment contract. In the years of crisis, health and safety at work, collective bargaining, and the workplace workers assemblies, had all been hit by resource problems and the consequences of the urgency of economic survival.

Since the end of the 1990s a process of reform of labor law reinforced workers’ rights, and universalized aspects of labor relations in the new economic sectors. For example, new health and safety at work law imposed systematic obligations (and a system of fines and sanctions) on management, and strengthened the union role. The CTC launched a massive training effort at all levels of its membership. Workplace accidents, especially fatal ones (more than halved), fell by about 30% in the five years to 2007. A new general law on labor relations, Resolution 8/2005, advanced the protection of workers and unions in situations of economic restructuring, lay-offs and redundancy, including giving workers a legal right to full-time training and university education with no loss of salary or service history. The law embedded rights of workers on part-time, temporary and other atypical contracts. It also spelled out the requirement of union and worker agreement to implementation of the law in workplaces. Other legislation addressed labor discipline and timekeeping, however, such legislation could only be implemented as part of the collective bargaining agreement (see below). A radical reform of the pension system, raising pensions and raising the age of retirement, was the subject of a 6-month consultation process involving 3.5 million workers in 85,000 special meetings, before the law changed in December 2008.

Human resource management was professionalized, with new qualifications, and subject to new national standards guidance, and to new legislation. This included annual performance and promotion reviews, and a new culture of training opportunities, based on processes that have to be implemented by joint committees of managers, union representatives, and elected workers.

On the salary and income distribution issue, Prof. Ludlam identified the massive inequalities of income resulting from the dual currency system and unequal access to hard currency through remittances, self-employment, access to tourists, and the black market. The government has been trying to restrict illegal hard currency incomes through police action and legal ones through more effective taxation measures. There is also a program to end the dual currency system, though this will be implemented cautiously to avoid an inflation crisis. Official salary scales still embody a very narrow range of incomes (the top point is less than three times the minimum salary), but in recent years political leaders, including Raul, have acknowledged publicly that the official salary was insufficient for necessities and that the ‘socialist principle of distribution’ – that income is based on work performed – has been undermined. Modest salary increases were introduced in 2005 and 2008, but these have been eaten away by price inflation, especially for food and fuel. Nevertheless, the ‘social wage’, not just in terms of access to public services but also in terms of subsidized food (covering about half of basic food needs) and electricity, remains exceptional and has prevented the emergence of absolute poverty among Cuban workers. Restoration of a decent official salary system is a precondition of the Revolution’s survival. The emphasis now is on productivity bonus schemes, and this was the subject of a major new law in 2008. This required every workplace to introduce performance-related pay, and removed the cap on individual bonus earnings for production workers, allowing up to 30% bonuses for ‘indirect’ workers. One objective of raising national productivity is to

raise salaries in the public services, where problems of recruitment and retention have resulted from limited access in such jobs to hard currency income.

The second section of the paper considered broader issues of union and worker power. At the most general level it was noted that the Cuban state, despite the ‘opening’ to capitalism, had retained control over the economy: the market remained subject to political control in Cuba’s ‘socialist state of workers’. Attention was drawn to the many forms of political participation open to unions and workers, and to the tradition of mass consultation over radical change, as in the ‘workers parliaments’ of the 1990s, and more recent mass consultations over economic priorities and over pension reform. Prof. Ludlam identified three key arenas of ‘the political power of the workers’: the role of the national unions and of the CTC federation; the collective bargaining system; and the workplace assembly system.

Prof. Ludlam identified, for example, in the ongoing process of reform of the national Labor Code, the permanent and extensive process of consultation with relevant unions by ministries preparing legal change. Union representatives participated at all levels of the political and legislative system, right up to the Council of State. In reality, nothing happens without a consensus being achieved on change.

In terms of the workplace collective bargaining agreements, a serious union effort has been made to strengthen the capacity of union representatives in this area. At the same time, the new labor laws have to be implemented through this bargaining mechanism, giving crucial power to local unions and workers in their monthly mass assemblies. An important example recently has been the implementation of new laws on timekeeping and labor discipline, where unions delayed implementation until material conditions existed such as adequate transport to work, and access to public service offices outside of working hours.

The last example also highlighted the role of the monthly workers assemblies, whose role includes agreement to company production plans and how labor law and salary and bonus systems are implemented locally. 75% attendance is required by law for decisions to be taken. Unions (and the state through requiring adequate provision of information by management) implemented a national program of revitalization of the assemblies. Over 80,000 such assemblies met in June 2008 to consider company plans and budgets, and this process was seen as central to strengthening the concept of workers’ ownership (and stewardship) of the country’s economy.

In conclusion, Prof. Ludlam noted that Cuba had the option of moving towards the mixed private-public economy plus welfare state model of ‘21<sup>st</sup> century socialism’ emerging in some Latin American states, but the evidence suggests that Cuba remains committed to its model of socialism and is taking steps to reinforce it as the economic crisis recedes. Recent changes in labor law, linked to economic change, have reinforced worker protection, union rights, and worker power. In Cuba, economic change remains a process of debate between social partners, not a life and death struggle over the private consequences of market forces.

**F. Trade Unions in a Global Crisis**  
**Martha Martínez Navarro, World Labor Federation, Americas Region (Cuba)**

In Cuba, union and labor rights are embedded in the Constitution, the Labor Code, and in complementary legislation, which includes the requirement that every workplace has a collective bargaining agreement, which is legally binding.

In the changed and more complex world of work that has emerged from the economic crisis and reforms of the 1990s, unions have faced a wider set of challenges and responsibilities. Part of this challenge has been met by greatly improving the labor law capacity of the unions at all levels, a process in which specialist labor lawyers have played a central role.

The session was opened by Martha Martínez Navarro, member of the Labor Law Specialist Group of the National Association of Law Collectives (*Equipo Especializado de Derecho Laboral, Asociación Nacional de Bufetes Colectivos*) and representative of the Americas Secretariat of the World Labor Federation. Sra. Navarro recalled that the specialist groups had started with a group of four lawyers in Havana in the 1990s. It took five years to create a national group to coordinate the work of specialist labor lawyers as part of the national system of neighborhood law centers.

The original group identified the need to train trade union leaders and representatives. So in the early years the system of specialist legal support was extended to all unions, all CTC national departments, and to the CTC provincial and municipal centers. A wider process of legal specialization and the creation of professional qualifications also took place.

Nowadays the labor lawyer groups provide, for example:

- Advice on legal defense of members;
- Consultation with individual workers (a free service is offered to workers needing representation in disciplinary cases);
- Training to the workplace trade union centers;
- Participation in the preparation and updating of collective bargaining Agreements;
- Advice on disciplinary regulations and on legal instruments;
- Advice at different levels of enterprises on working and social conditions, and on bonus schemes
- Delivering lectures and workshops on labor law at different levels, from the national CTC college through to workplaces; and
- Advice to the CTC on legislative proposals.

Sra. Navarro pointed out that all draft labor legislation is submitted to the relevant unions, the CTC, and to labor lawyers. There is collective consultation among labor lawyers too, to get the best and most useful advice. For example the Group had advised on the 1997 legislation that reformed grievance procedures; on the legislation on the Business Improvement System; on the new general employment relations legislation of 2005; and on the reform of pension law in 2008.

They were also advising the CTC on the reform of the national Labor Code, which was now in its 26th draft!

In Cuba labor lawyers operate at all levels, for example in the area of health and safety at work they have powers where they encounter non-compliance. They work alongside the union general secretaries in the ministerial committees.

They are providing training on collective bargaining, which is particularly important in the current situation of economic change in Cuba. The 19th congress of the CTC set out the fundamental objectives of trade union work in Cuba and the labor rights function is central to that, and the labor lawyers are needed in this respect.

Sra. Navarro said that given that there are conflicts at work between workers and management, albeit regarded as ‘non-antagonistic’ because of shared objectives of raising standards in Cuban society, the labor lawyers’ job is to provide the labor side with knowledge of labor law and restore the balance of power between workers and management. They provide expertise to the workers side. As professionals they have rejected the flexibilization and deregulation of neoliberalism. Their ultimate goal is to contribute to building Cuba’s socialist society.

In the discussion that followed Sra. Navarro’s presentation, Elio Valerino, head of labor and social affairs at the CTC, suggested that labor law in Cuba has three fundamental roles: it provides legal defenses in respect of the state; it maintains material and economic guarantees to workers; and the third crucial element is that workers must be able to defend their rights in reality. Of course, he acknowledged, “we encounter violations of labor law and we have a fundamental role in stopping such violations.”

Dean Hubbard noted that U.S. union-side labor lawyers see themselves as being on the side of the workers against the management, whereas in Cuba’s socialist system, labor lawyers have a dual role of defending workers and also of advising managements. Elio had noted that the violation of labor rights does occur in Cuba, so how do Cuban labor lawyers deal with this? Sra. Navarro answered that, in Cuba, labor conflicts are regarded as ‘non-antagonistic contradictions’ (i.e., not class conflict in socialist terms). The role of labor lawyers working with the CTC is first and foremost to help prepare trade unions for their role as defenders of union and workers’ rights as laid down in law, and in collective bargaining agreements. But they also have a role in imbuing in managers the culture of union and workers’ rights and the values underpinning Cuba’s labor laws. Indeed their overall purpose as lawyers is to build a labor law culture. The presence of specialist labor lawyers working with the labor movement gives individual workers additional protection. The recent and ongoing professionalization of human resource management is not seen as challenging the work of labor lawyers but as complementing it and helping in the wider task of embedding a culture of respect of labor law and of union and workers rights.

Another Cuban labor lawyer stressed that in their management of labor relations, managers were obliged by law to consult with the unions. For example, the new law on payment-by-results would, in each workplace, be implemented as a result of a process in which the

workers themselves would participate in the design of new payment systems, and in the end such systems could only be adopted with the approval of the workers' assemblies. The point was also made that all the recent labor legislation contains requirements that implementation be in agreement with the unions, and with the agreement of the workers themselves in their monthly workplace assemblies.

More generally it was noted that Cuba is undergoing an extensive reform of its labor legislation and of its human resource management systems. For example in 2008 a major reform of performance-related payment systems had been enacted, to raise salaries. The role of training had been greatly enhanced. These developments require a strong legal culture, not least in the task of empowering the workers in their workplace assemblies. This reflects the much greater importance of the collective bargaining agreement. Such bargaining takes place in the context of a complex range of protective legislation for workers based in the Constitution, the Labor Code, and complementary legislation. And since the general employment relations reforms of 2005, it takes place in a decentralized context too, giving workers and unions locally more power and more responsibility. An important example given was the implementation since 2005 of the concept of '*idoneidad demostrada*' – 'demonstrated competence', which was used to underpin equal opportunities in appointments, grading, and promotion. Collective bargaining also plays an important role in how this is managed. Local payment systems (i.e., everything on top of the basic national salary scale) are also implemented through collective bargaining. Similarly, all aspects of management of health and safety at work are in the collective agreement, as are the implementation of timekeeping and disciplinary regulations.

Elio Valerino stated that since 2005 Cuba has been trying to undo the social disorder that has been the consequence of the economic crisis of the 1990s and the measures taken to ensure the survival of the Revolution. The Labor Code reform will be completed as the material conditions for its adoption are established, and after a full period of consultation with workers on the draft Code. In the meantime many changes are taking place. One development, where material conditions did not exist for universal implementation, was for national standards to be adopted that were not obligatory, but provided benchmarks for good practice that unions could pursue. The role of labor lawyers for the unions and the workers, said Elio, is absolutely central as this process continues. And the CTC is implementing a massive training program to ensure that these challenges to the labor movement can be met in the interests of union members, and compliance with labor law ensured.

### **G. Defending the Rights of the Disabled**

#### **Joan Hill, United Steelworkers International Union (United States)**

This presentation addressed discrimination based upon disability and the role that unions play in protecting the rights of disabled workers. It is important to also understand why accommodating disabled workers is an issue for unions.

In 2007, there were 4 million nonfatal occupational injuries or illnesses reported in the United States. 1.2 million of those reported cases resulted in the worker missing days or being absent from work. Therefore, every on the job injury could result in an employee being disabled,

or at least considered to be disabled. In this context, it is clear that unions have a significant role to play in getting injured workers back on the job, and being productive again.

In past years, presentations were received on the efforts to address disabilities among Cuban workers and citizens. One of our interpreters in 2006, in Santiago de Cuba, was legally blind, but was afforded the opportunity to learn English and work as a translator. Prior delegations have visited a school and residence for young Cubans with disabilities and questioned the need to address architectural barriers.

In the United States, we have had nearly two decades of experience with laws prohibiting discrimination in the area of employment, housing and public buildings. The Americans with Disabilities Act, simply referred to as the ADA, was passed in 1990. Certain provisions of this law prohibit an employer or union from discriminating against individuals with a disability. Compared to other discrimination laws, the ADA goes further and obligates the employer to consult with a disabled employee (and his or her union) to devise a reasonable way to accommodate their disability so they can be a productive member of the workforce.

In regard to employment, the ADA prohibits most employers from discriminating against job applicants and workers who are disabled, who are thought of as disabled or who may become disabled. This law covers all aspects of employment, including the application process and hiring, medical examinations, the work environment, on-the-job training, promotions and wages, benefits and even employer sponsored social activities. In addition to private sector employers, state and local governments are subject to the provisions of this law as well.

Generally, the Act prohibits discrimination against an individual who is qualified, with a disability that substantially limits a major life activity. A qualified individual is: An individual with a disability, who has the required skill, experience, education and other job related requirements of the position held or desired, who can, with or without reasonable accommodation, perform the fundamental job duties of such a position.

Individuals who have a record of impairment are protected, for example, workers who have been injured at work in the past. Under the U.S. disability law, a disability is defined to include both physical impairments – physiological conditions, cosmetic disfigurement or anatomical loss -- and mental impairments such as mental retardation, emotional or mental illness and specific learning disabilities.

The disability must be serious, one that limits a person's ability to perform major life activities such as caring for yourself, or performing manual tasks, and includes a long list of activities that able-bodied persons do on a daily basis; for example, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

The ADA requires the employer to make an accommodation if doing so will allow a job applicant or employee with a disability to participate in the job application/hiring process, to perform the necessary and essential functions of a job, or to enjoy other benefits and privileges of employment in the same way employees without disabilities do. For example, an employer

may be required to modify tools used in the workplace, modify the job, modify the hours of work or reassign a worker to another position, or a vacant position. If the person has a disability such as hearing or vision impairment, the employer may be required to provide readers and interpreters; however, the employer will not be required to provide glasses or hearing aids, in this example. Generally, the employer is required to make the workplace accessible to and usable by people with disabilities.

There are limitations to the obligation to accommodate. An employer does not have to offer an accommodation if it would impose a serious or undue hardship on the operation of the employer's business. Undue hardship is defined as an action that is significantly difficult or expensive. For workplaces where unions represent the workers, American labor laws require the employer to bargain with the union about conditions of work while at the same time, the employer has a legal duty to comply With the ADA.

What does this mean for unions in the U.S.? Because the "reasonable accommodation" requirement under the ADA is an area in which the employer possesses discretion regarding compliance, employers must therefore bargain with the Union during the reasonable accommodation process. Although the initial request for accommodation may come directly from the employee to the employer, the employer must give notice to and confer with the union on accommodation issues which materially affect working conditions. An employer that bypasses the union and reaches an agreement with the disabled employee which conflicts with the collective agreement may be found to have directly dealt with the employee in violation of our national labor law.

Cases which have been decided by our courts involving the ADA and employees who claim they have been discriminated against based upon their disability make it clear that the terms of a collective agreement are relevant to determine whether an accommodation is reasonable or would cause an undue hardship – putting the employer to significant expense or difficulty. The courts have said that the employer simply cannot ignore the requirements of the collective agreement without first attempting to find, through discussion with the Union, a solution that does not conflict with the Agreement or the law.

Recent amendments to this law were enacted to restore protections to the disabled that had been reduced, in part, by courts and judges appointed by the Bush Administration. This prior Administration could not withstand a strong voice for workers and disabled Americans to return the broad protections and rights to gainful employment as originally contemplated by this law. Once control of our federal legislature was returned to Democratic Party, these amendments were made law in 2008.

The ADA should be looked at as a tool to benefit the workers. Unions can disseminate vital information about the ADA such as the illegality of discrimination against individuals with disabilities and how the accommodation process works. Ms. Hill maintained that the best policy for the Union is to assist any disabled employee in requesting an accommodation and working

with the employer to determine what accommodations are available to the employee. Negotiation is the key to finding the best workplace accommodation, and building a strong union.

## **H. Some Considerations about Labor Justice**

### **Hon. Nancy Morales Gonzalez, Justice of the Supreme Popular Tribunal (Cuba)**

Justice Morales acknowledged that in Cuban worksites, as elsewhere, there are two parties, the employer and the workers, which can result in conflicts when labor rights are violated and when discipline has been imposed. To solve conflicts, Cuba, has introduced “Organs of Labor Justice” or OLJs to the workplace. Since the early times of the Revolution, Fidel Castro said that labor conflicts should be dealt with in the workplace. An OLJ is a three-member grassroots labor justice body, which effectively holds a trial in the workplace; appeals can be made to the municipal court or even the Supreme Court.

In disciplinary cases, there are eleven measures or forms of discipline, which includes firing. Challenges can be made to any permanent modification of the worker’s labor status, including layoffs and any other separation. The employer must demonstrate “just cause” for any action, and a record is developed before the organs. Laws, including the 1940 version of Labor Code Article 77, provide that no employee can be fired without a record or history of discipline, and due process. Additional provisions of the labor code address causes for termination (assigning ten causes to the employee and five on the part of the employer).



Panelists Elena Poli, 2<sup>nd</sup> from left, Joan Hill, 2<sup>nd</sup> from right, and Justice Nancy Morales, far right, and Moderator Lidia Guevara, center.

Photo by Steve Ludlam

## **I. Deregulation of Labor Rights in Italy**

### **Elena Poli (Italy)**

This speaker gave delegates a brief introduction to the issues of discharge and discipline under Italian labor code. Employers are prevented from firing without justification. However, there is a lack of legal standards; therefore, workers are limited in their ability to struggle against an employer’s position. Workers under contract can be “borrowed” by another employer, a

system which is market dependent. Accordingly, workers have no chance to defend themselves against wrongful provisions of the contract.

**J. Using International Labor Rights to Challenge  
New York's Ban on Strikes by Public Sector Workers  
Dean Hubbard, Co-Chair, NLG Labor and Employment Committee,  
Associate General Counsel, TWU Local 100  
Adjunct Professor, Murphy Labor Institute, City University of New York  
(United States)<sup>3</sup>**

Professor Hubbard argued that labor law practice in the U.S. differs from practice in many other parts of the world in that most U.S. courts and agencies haven't expressly incorporated the ILO Core Conventions into their interpretations of domestic labor law. Thus, when labor activists in the U.S. think of international human rights violations against workers, they often think of crimes such as the unpunished murders of trade unionists in Colombia. If they are very progressive, they might even think about the denial of the right to organize by the southern state of North Carolina to its largely African-American public workforce. But very few labor lawyers in the U.S. have conceived the denial of the right to strike of public sector workers in a highly unionized northern state like New York as an issue of international human rights law.

In part, this is a result of the assumption that the ILO doesn't have coercive power to enforce even its Core Conventions. But an even more significant contributor to this gap in U.S. labor practice, in Prof. Hubbard's view, is the sometimes unconscious ideology of "U.S. exceptionalism," the idea that somehow the U.S. is exempt from international norms that apply to the rest of the world. Mr. Hubbard argued that, apart from being incorrect as a matter of law, this ideology of exceptionalism is a dangerous idea, which is actually used to deprive workers in the United States of their fundamental labor rights.

One example of this effect is the so-called "Taylor Law" in New York. The Taylor Law bars all strikes in the public sector, and provides or punishment of "illegal" strikes through extensive fines, loss of dues check off, and imprisonment of trade union leaders. New York's Transport Workers Union Local 100 is about to file a Complaint with the ILO arguing that the Taylor Law constitutes a serious infringement on internationally-recognized core trade union rights as articulated in core ILO Conventions 87 and 98. The analysis of the impact of the law arises out of Local 100's experiences in the context of a 60-hour strike undertaken between December 20 and 22, 2005. Although the United States government has not ratified ILO Conventions 87 and 98, it is still expected to comply with these Conventions, by virtue of its membership in the ILO. The ILO Committee on Freedom of Association has previously assessed the United States' compliance with these Conventions, in spite of the objections of the United States, noting that its mandate to examine potential violations of Conventions 87 and 98 "stems directly from the fundamental aims and purposes set out in the ILO Constitution," which are applicable to all member states of the ILO.

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<sup>3</sup> Substantial portions of Mr. Hubbard's paper were drawn from a draft of the ILO Complaint written by Ashwini Sukthankar of the International Commission for Labor Rights in collaboration with Mr. Hubbard.

Courts in New York and the U.S. Supreme Court have not thus far been sympathetic to challenges to the validity of the Taylor Law on the basis of guarantees within the United States or New York State Constitutions. New York's highest court, the Court of Appeals, has rejected the argument that the differential treatment of public sector and private sector workers created by the Taylor Law strike prohibition violates the commitment to equal protection of the laws in the 14<sup>th</sup> Amendment of the US Constitution, as well as Article I, Section 11 of the New York State Constitution. Similarly, in a case in which a sanitation workers' union challenged a heavy fine, loss of automatic dues deduction, and the imprisonment of its president following a strike, the Court of Appeals determined that the Taylor Law was not in conflict with the due process of law guaranteed by the New York State and U.S. Constitutions.

The collective bargaining agreement between TWU Local 100 and the New York City Transit Authority (MTA) was scheduled to expire on December 15, 2005. During negotiations for a new contract, leading up to that date, the employer demanded that the union accept a two-tier system of pension and health care benefits, in which newly hired employees would have substantially inferior benefits to current employees. These MTA demands came at a time when the agency admitted to a billion dollar surplus. On December 13, 2005, the Attorney General of New York State sought an injunction against any potential strike by Local 100, and the following day the court obliged. On December 20, five days after the contract expired, with the MTA continuing to refuse to bargain in good faith, Local 100 went on strike. Less than three days later, the MTA dropped its insistence on slashing the pension benefits of future employees – a precondition that Local 100 had demanded for ending the strike. MTA and Local 100 agreed that some costs of health care benefits would be borne by *all* employees – not just future employees – and the parties arrived at a tentative agreement on a new contract just a few days later.

At no point during the strike was any threat presented to the health and safety of residents of the metropolitan New York area. Nevertheless, early on the first day of the strike, even before any reckoning of the consequences, the court deemed the union to be in criminal contempt of the injunction, and imposed a fine of \$1,000,000 for every day that the strike endured. On 19 April 2006, the court determined that the union would be fined \$2.5 million for its 60-hour strike that individual employees would lose two days' wages for every day of the strike, and that Local 100 would forfeit automatic dues deduction, as provided for in the Taylor Law in the event of a public sector strike. The fine was so disproportionately large, in relation to the resources of the union as well as the magnitude of the alleged offense, that it is fair to speculate that it was designed to cripple or even destroy the union, as well as to deter other unions from contemplating strike action.

On April 24 2006, the President of Local 100 was sent to prison, to serve a 10-day sentence imposed for his role in violating the injunction. The imprisonment of Mr. Toussaint – and the court that granted it – should be understood as part of a broader legal and policy framework in the state of New York, which criminalizes and thereby seeks to deter legitimate trade union activity in the public sector. And yet, the importance of the right to strike, and its effectiveness as a tool of last resort are only highlighted by Local 100's experiences of December 2005: A short, principled, peaceful strike led to the resumption of effective, good-faith bargaining and ultimately, a contract that protected workers' economic and occupational interests.

This situation constitutes a severe violation of Conventions 87 and 98. The U.S. government has allowed New York State to pass and to retain legislation that gives employers in the public sector a dramatic advantage in collective bargaining and dispute resolution processes, and discriminates against public sector workers by outlawing associational activity which is protected for private sector workers and by permitting court injunctions against public sector associational activity which may not be issued against private sector workers.

The Taylor Law cannot be reconciled with the principles espoused by the ILO Committee on Freedom of Association. As the Committee has noted, “[t]he right to strike is one of the essential means through which workers and their organizations may promote and defend their economic and social interests.” The Committee defines the exceptions to this right quite narrowly, only permitting restrictions on the right to strike in essential services “in the strict sense of the term.” This refers to services the interruption of which poses a “clear and imminent threat to the life, personal safety or health of the whole or part of the population.” The Local 100 strike did not fit this description. By the accounting of State and City officials, as well as the media, the strike did not endanger the safety or health of any segment of the population.

Local 100 anticipates that the U.S. government’s response to the Complaint will focus on its limited jurisdiction to deal with public sector labor relations at the state and local level, given the federal structure of the United States and the sovereignty of individual states with respect to many areas of law, including this one. However, in 1990 the Committee summarily dismissed this same argument by the U.S., pointing out that “the central issue here is whether the principles of freedom of association are complied with . . . and not whether these rights are guaranteed through national or local legislation.”

The subsequent lack of attention by the U.S. to promoting a resolution of this issue calls for greater engagement by the ILO. Local 100 is asking in particular for an analysis of the ways in which the federalism argument has allowed the United States to deny responsibility for violations of international human rights norms, while enabling the state or states in question to be insulated from direct jurisdiction and oversight. The federal government has repeatedly sued states and localities for enforcement of international obligations related to taxation of foreign entities. In the area of human rights obligations, however, the federal government plays such a passive role that it will claim to have fulfilled its duty merely by passing on the recommendations of the Committee on Freedom of Association, to the state-level authorities. The United States actually understands New York to be responsible for the implementation of a range of international obligations; New York believes itself to be, and holds itself out to be so responsible as well. Thus, Local 100 will ask the Committee on Freedom of Association to pierce the federalism veil that has typically operated in terms of the United States government's response to state-level violations of the freedom of association principles that form the bedrock of the ILO Constitution, and are elaborated in Conventions 87 and 98, and seek compliance from the State of New York.

Local 100 will ask, therefore, that the Committee on Freedom of Association recommend amendments to the Taylor Law that would bring it into compliance with international standards. Local 100 will ask that the Committee recommend that the United States take action to ensure

that New York State legislates, and interprets state laws, in accordance with international labor rights. Local 100 will ask that the Committee recommend redress for Local 100, at a minimum through a reimbursement of the fines imposed on the union as well as on individuals, and a payment to assist the Union in recouping losses suffered during the nearly 18 months it was deprived of dues checkoff.

Finally, in terms of recommendations directed solely to the government of the United States, Local 100 will ask that the Committee reiterate the urgent need to ratify Conventions 87 and 98 at the earliest opportunity. While the United States is already obligated to respect the principles elaborated in Conventions 87 and 98, ratification of these crucial conventions would help the entire fractured system of labor relations in the United States to move towards greater coherence and harmony.

Finally, Prof. Hubbard articulated the hope that this action, in combination with an organizing campaign, will provide a concrete step towards the transformation of the ideology of exceptionalism within the labor rights community in the U.S.

**K. The Effect of U.S. Labor Policy on the Rights of Undocumented  
Employees to Freedom of Association  
Tamara Lee, Cornell University (United States)**

Academic study of transnational migration suggests a complex policy distinction between *immigration* policy (which addresses admission into and removal from the United States) and *immigrant* policy (which deals with the manner in which immigrants are treated once they enter the country).<sup>4</sup> Although there is a clear technical distinction between the policies, the presenter argued that with respect to the federal immigration law (immigration policy) and federal labor law (immigrant policy), there is no conflict of laws requiring the choice of one over the other.

To support this claim, the U.S. Supreme Court's holding and reasoning in *Hoffman Plastic Compounds, Inc. v. NLRB* and its resulting judicially-created incentive for employers to discriminate against undocumented employees and to strategically fracture the solidarity of all workers in their struggle to exercise their right to join a labor union in the United States was explored. This speaker joined legal scholars such as Michael J. Wishnie (2004) that argue that the case was wrongly decided because it (1) relies on a false and judicially-created conflict between federal immigration law and federal labor law; (2) arbitrarily elevates immigration policy over labor rights. Due to these failures, the Court's decision, although couched in language asserting its protection of federal immigration policy, actually creates an incentive for employers to substantively violate both laws.

In an effort to show the practical implications of the decision, personal experiences from work at the NLRB showing the abuse of the *Hoffman* decision by employers to divide workers by race and class during organizing campaigns were shared. This highlighted the inability of the Board to protect the freedom of association when the unit contains undocumented workers. By

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<sup>4</sup> Peter H. Schuck. *Immigration Law and Policy: Taking Immigration Federalism Seriously*, 2007 U Chi Legal F 57, 59. See e.g, Linda S. Bosniak, *Immigrants, Preemption and Equality*, 35 Va J Intl L 179, 186 (1994).

doing so I hoped to highlight the broad consequences of the Court's decision and its potential effect on the rights of all immigrant employees.

**L. Considerations About Migrant Workers**  
**Guillermo Ferriol Molina, Vice President, Cuban Labor Law Society (Cuba)**

Lic. Ferriol asserted that two basic points must be considered: social phenomena such as migrant labor are fundamentally economic phenomena, and the situation of workers in a foreign country must be considered in the context of the laws and judicial system of that country. There is also a third point. Laws are expressions of political will, which is also determined by economic considerations, so that the regulations affecting such workers, or the lack thereof, are expressions of this political will.

Ferriol reminded his listeners that humans have always moved around, seeking food and other necessities. Both internal and external factors are at work, and a system has developed whereby economic powerhouses exploit the great majority of countries, leading to greater concentrations of wealth than in the exploited countries. Simultaneously, these systems create social inequalities, (e.g., poverty, unemployment, growth of the informal economy, social exclusion, lower standards of living, lack of labor regulation, loose employment laws, and privatization of social security). The economic factors influencing migration can be summarized as: global economic and demographic disparities; the demand for labor in the developed countries; poverty, unemployment and underemployment; the economic crisis, and the lack of opportunities for economic advancement.

Receiving countries generally have rules mandating equality before the law of citizens and non-citizens, but this is honored primarily in the breach, he argued. Non-citizens are often called "illegals," or "undocumented." Their status is sometimes criminalized. At other times, they are virtually slaves. Generally, the migratory process is facilitated by illegal and highly profitable trafficking, creating irregular migration, with both labor and sexual exploitation, and resulting in a brain drain. Given these realities, Ferriol asked rhetorically whether migrant labor should be eliminated, or whether, at a minimum, protection must be provided for the workers' most basic rights.

It is estimated that, not counting asylum seekers, there are more than 200 million migrant workers in the world, including 47 million in the Americas. About half are women, primarily in vulnerable sectors. The United States is an important reference point, given its concentration of wealth, and its role as the center of politics, which has caused so much suffering among our peoples. Up to 2000, the annual migratory stream to the U.S. was about 50,000 persons (20% Mexicans). By 2020, it is estimated that it will be 1,000,000, and, by 2030, 1,450,000. Mexico and Costa Rica are also important receiving countries, particularly for Guatemalans and Nicaraguans, respectively.

Undocumented migrants have great difficulty gaining protection against exploitation, and access to social services such as health and education. Hence a strategic objective of the ILO and other international organizations is to end irregular migration. The most important goal is therefore the formulation, together with the receiving countries, of systems of migration which

effectively control trafficking and abuse of migrants. To do so, inequality in the sender countries must be eliminated. However, it cannot be forgotten that approximately 60% of the remissions of migrant workers goes to developing countries, and since the 1990s, these remissions have exceeded official foreign aid.

Ferriol pointed out that the current economic crisis is nothing new. Capitalism has always experienced such cyclical crises. The North American economy in particular cannot function without the international and trans-national finance/monetary/credit system which has been built up over the past 80 years. And the current crisis has deepened social inequalities. The wealthiest 20% of the population is responsible for 86% of all private consumption, while the poorest 20% consume 5% or less.

It is not just the U.S., but Europe as well, that denies rights to migrant workers. In the International Conference on Migration, the Secretary General of the U.N., Ban Ki-moon, urged the developed countries not to mount offensives against foreign workers. He argued that labor mobility could be a weapon in the struggle to save the global economy from the current crisis, by ensuring that labor resources were effectively deployed. The effect of the crisis on migrant workers includes higher barriers to regularizing their immigration status, and increased border militarization and control. Poorer countries are feeling the impact of the economic crisis, through the lessening demand for foreign workers, especially in the construction and tourism industries. The greatest impact has been a reduction of financial remittances, affecting the economies, and increasing internal tensions.

For solutions, Ferriol suggested looking first to the universal principles set forth in international employment norms. This includes article 97 of the OIT, regarding migrant workers, adopted in 1949, which established a series of protections for migrant workers which signers must fulfill. Forty-eight countries, not including the U.S., have ratified this treaty. Article 143, adopted in 1975, and reinforced the measures for protecting the rights of migrant workers. It has been ratified by 23 countries, including only Venezuela on our continent. In other words, international norms would reduce the exploitative conditions of so many migrant workers.

A basic principle of politics is to allow free movement of capital, but not labor. Further, the extensive restrictions on legal immigration in recent years have increased internal tensions in developing countries. Yet there is no political will to solve these problems, and as migration tends to be increasingly seen as an important solution to economic problems, the lack of legal migration only increases illegal migration, as people seek solutions to problems which not infrequently include their very survival. This has contributed to the lack of protection for migrant workers, which the current global and financial crises have only exacerbated.

The solution for Latin American peoples, Ferriol argued, “is to seek our own models of development, rejecting models and embracing cooperation among our peoples as the first step towards Latin American integration, based on equality, mutual respect, understanding, and brotherhood.” ALBA, he said, is a first step in this process. Only by eliminating the disparities and injustices present in some economies can we eliminate the causes of illegal migration, at least as a social phenomenon. These development models must create space for social justice, and social inclusion. As legal workers, we must provide social organizations with the legal tools

to achieve these changes, which imply the political will to resolve these problems, which will be exercised through judicial means. We must change our economies, incorporating concepts of social justice, in the redistribution of wealth such that it responds not only to the needs of a minority. We must eradicate once and for all the model, which has brought our peoples only inequality, and social exclusion. We must think for ourselves, he said, and build our own future.

**M. Latin American Integration**  
**Dr. Lourdes Regueiro Bello, Center for Studies on America (Cuba)**

Dr. Regueiro gave a presentation about the current efforts at regional integration in Latin America and the Caribbean. Although regional integration is a broad term, the general understanding is that it is the efforts taken by neighboring sovereign states to establish cross-border institutional cooperation and agreement regarding the development of trade regulations, economic, political and social policies, and security concerns.

The European Union is perhaps the most notable and established example of a regional integration effort. Dr. Regueiro explained that beginning in 1960 with the Latin-American Free Trade Association ("ALALC", formally "ALADI) (all abbreviations refer to the Spanish names of the organizations), various countries within the Latin American and the Caribbean region have made numerous attempts at regional integration. She also noted the following organizations established between 1960 and 2004: Central American Common Market ("MCAA"), Andean Community ("CAN"), Caribbean Community ("CARICOM"), Mercosur, Union of South American Nations ("UNASUR", formally "CSN"), and Bolivarian Alternative for the People of Our America ("ALBA").

Dr. Regueiro argued that the integration schemes adopted by the various organizations in the 1990's are very different from those adopted since 2005; the earlier models followed an orthodoxy, whereas the most recent ones have a left-wing economic emphasis and demonstrate greater diversity. Although the current models do not completely reject the previous economic paradigm, Dr. Regueiro argued that they are reflective of the current governments in the region and therefore have more of a protectionist and nationalist scope.

**Closing Remarks**

In his closing remarks, Dean Hubbard noted that Cuba has long been an isolated beacon of hope, but that the emergence of progressive leadership in countries throughout the Americas after years of struggle social movements. He reiterated that this historic moment is one of profound opportunity given the convergence of these progressive movements.



### III. Interchange with CTC

The third day of the combined program of conference and research began at the national offices of the CTC in Central Havana. The General Secretary of the CTC, Salvador Valdez Mesa, welcomed the delegation.

#### A. The Training System of Cuban Trade Unionists Regla Maria Aquila Hernandez<sup>5</sup> (Headmaster of the CTC National Training College)

The director of the Lazaro Peña School, the CTC's National Training College (located within Havana Province) argued that a fundamental premise of the trade union movement in Cuba, and for any social movement, is that to sustain itself, training programs for the leaders are required. The 13<sup>th</sup> Congress of the CTC in 1970 established a system to train union members, or *cadres*. This resulted in the founding in 1975 of a national school to train and qualify trade union members.

The education centers are located in each of the provinces and offer work-related training, post graduate education, academic training (degree program) and a collaboration program with the National Association of Economists, offering finance and accounting education to *cadres*. In Cuba, training of union members is considered an investment by enhancing the knowledge of *cadres* in social, political and legislative areas.

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<sup>5</sup> Co-Coordinator Joan Hill wrote extensively on the topic of labor education in Cuba after an interview with Sra. Hernandez during the 2008 delegation.

After the Special Period, many schools across Cuba were closed; however, the CTC schools withstood the hardships. The trade union movement currently maintains the national school in Havana, 15 provincial schools, groups of coordination at the municipal level (170) and basic classrooms in workplaces or within a community (about 3000). Courses are offered in coordination with the World Trade Union Federation and International unions; seminars are made specific to the needs of specific constituencies, whether teachers, activists, or mid-level courses for the secretariat level.

Courses are also offered on the “basic” level, including health and safety courses, as well as courses in economics, business management, collective bargaining, gender issues and computer training. Education has also gone multi-media in Santiago province, where a radio and television show offer local trade unionists the opportunity to call in questions for the CTC on a variety of issues.

Recently, a number of measures have been enacted tying payment/salary to productivity, as part of the effort to increase pay for workers, which has created an urgent need for the development of new courses. The CTC schools have developed training to give trade union leaders fundamental information on Resolution 9, which they can bring to the workplace, so that new payments systems can be established and implemented through collective bargaining.

Education of trade union leaders also involves train-the-trainer approaches, where local unions choose instructors at the grassroots level who voluntarily train others during or after work hours.

### **B. The Rights of Workers in the Education Sector Ishmael Drullet Perez (General Secretary of Education, Science and Sports National Workers Union)**

Mr. Drullet presented an overview of the educational system in Cuba, with an emphasis on its historical development. That development has been dramatic. Along with the health care system, the development of an extensive system of education has been one of Cuba’s greatest successes. According to Mr. Drullet, in 1953, when revolutionaries attacked the Moncada Barracks, 56.3% of the Cuban population was children. And of these children, only 28% went to school.

At that time, along with low enrollment there were only 32-34 schools in Cuba. As a result there were approximately 1 million illiterate adults. There was also no educational program for disabled children. In the major urban areas, there were only three universities and only 6 schools of education. The total budget for education in 1958 was 79.4 million pesos.

Following the revolution in 1959, all that educational poverty was done away with. Cuba created 10,000 new classrooms. The Cuban people organized contingents of teachers to teach literacy to the million people who were illiterate. They also set up a training and special education program for approximately 50,000 young women from the countryside. Following these initial efforts to develop and organize an educational system, the Cuban people organized a

nationwide literacy campaign. It was with the creation of those literacy brigades, that the entire educational structure of Cuba was nationalized.

With this nationalization of the education system, there was a need to create an organization, a union specifically for teachers and educational workers. In 1961, the educators of Cuba called the first National Educational Congress. The Congress' goal was develop ways to create political leaders in education, who would work in the interest of revolution and in the interest of education workers. The union that was created contained approximately 500,000 members. The members came from over 13,000 grass roots organizations. Another goal of the Congress was to create something of an educational revolution that would go beyond literacy to educate the people in "comprehensive culture."

Today, there are approximately 13,000 primary schools. 6,000 of these schools are located in rural areas. 86.5% of enrollment is in classes of 20 or less. There are also approximately 650 colleges in Cuba. This includes 300 universities and two educational television channels.

The education revolution is not without shortcomings. In Mr. Drullet's view, one of these shortcomings is that 70% of students in municipal universities study humanities, and an insufficient number of students study science. So one of the current goals of the educational system is too inform and motivate students to study science.

Mr. Drullet described the local structure of the educational system as a flat structure. In each locale, at the municipal level, local schools are managed and funded by local councils. It is also on the municipal level where agreements between the staff and education professionals are made. Each municipality also has a member assembly to set school policy, which meets once a month. At that time, school managers must account for their actions.



Photo by Joan Hill

**C. The Health Care System in Cuba**  
**María del Carmen Rodríguez Reyes**  
**(Secretary General of the National Healthcare Workers Union)**

The centerpiece of the Cuban socialist system is its health care system. Cuba is very proud of its commitment to universal high-quality health care. Our group received several presentations proudly expounding on and explaining how the government implements the right to good health care for all citizens. The basis for this right to health and its guarantee by the government is contained in Article 50 of the Constitution. Law 41 further articulates this right and guarantees that health care will be provided universally and without discrimination.

High-quality universal health services became an immediate priority after the revolution succeeded in 1959. An elaborate program to increase the number of doctors and health care workers, as well as of hospitals and clinics, turned Cuba from being a relatively backward country regarding health care into one of the world's top health care providers. For example, before 1959, Cuba's infant mortality rate was 60 per 1000 births; in 2008, it was less than five per 1000 births. Pre-1959, life expectancy was 60 years; in 2008, it was 77 years. Immunizations for children, which barely existed pre-revolution, became widely available, and in 2008, the immunization program covered thirteen diseases for all children.

About five percent of the population works in the growing health care industry. This country of about eleven million has over a half-million health care workers. It has 243 hospitals, 14,000 neighborhood *consultorios*, 400 *policlinicos*, and 165 clinics country wide. It has one doctor for every 158 people and one nurse for every 125 people. These are phenomenal statistics when compared to the United States, which has approximately one doctor per thousand people and leaves about 25 percent of the population without insurance and thus with limited access to health care.

The Cuban health care system is structured in such a way that everyone is supposed to be within walking distance of a neighborhood primary care center known as a *policlinico*. Referrals for treatment in hospitals are made from these neighborhood examination, screening, and treatment centers. In Cuba, medical treatment is proactive in that active inquiries, testing, and preventive medicine are the rule. Pregnant women are carefully monitored during 17 regular consultations during pregnancy, and regular examinations, which include immunizations and preventive medicines, are provided to all. Elderly citizens receive mandatory vaccinations against numerous diseases and are provided with dietary and exercise programs.

Because health care in Cuba is based on humanitarian and social concern, it is a non-profit governmental service. Furthermore, Cuba has attempted to reach out to the rest of the world in its provision of health care. Some 23,500 public health students from thirty countries have studied medicine in Cuba, primarily at the world-famous Latin America School of Medicine, founded in 1998. Since 1963, Cuba has provided medical assistance to over one hundred countries, and today 240 Cuban medical professors are teaching in 15 countries. Also, since 1963, Cuba has sent almost 114,000 doctors and health care workers on medical missions and collaborations to 103 countries; and, as of December 2008, over 38,000 Cuban-trained doctors and health care workers were providing services in 74 countries. Cuba offered a contingent of medical professionals and aid to the United States to help with the human disaster in New Orleans and on the Gulf Coast after hurricane Katrina, but the United States rejected this humanitarian assistance, presumably on political grounds.

Cuban officials told us that its public health outreach to the world was based on what was called the concept of “big love,” as advocated by Che Guevara. After the Chernobyl nuclear accident, over 18,000 children and 3,000 adults from the Chernobyl area were brought to Cuba for medical treatment. Cuban medical professionals were sent to Ukraine, where they treated and helped over 20,000 more children affected by the accident. Countries in Latin America often send sick and injured people to Cuba for treatment. About 18,000 Cuban doctors practice in Venezuela; and there is a hospital in Havana that treats only Venezuelans.

This immense medical collaboration to bring better health services to the rest of the world, particularly to countries that lack adequate doctors and medical services, has greatly increased the favorable image of Cuba on the world stage. But Cuba’s worldwide medical presence has also drawn criticism from Cuban citizens. I heard complaints that the services at the hospitals and clinics had been significantly reduced so that Cuba could send medical brigades to other countries. Others resent the fact the one of Havana’s best hospitals is run exclusively for Venezuelans, thus diluting available hospital space for Cubans. They also resent what are known as CUC hospitals –actually separate floors or wings of hospitals—where anyone able to pay can go for treatment. These units create a two-tier system, which undermines the egalitarianism of the Cuban health care system. There is a wide-spread belief that better medical equipment and devices, as well as better care givers and treatment, are assigned to the areas with paying patients.

Despite these criticisms and tensions, what Cuba has achieved is admirable. It has set an agenda for universal high-quality health care that all nations should aspire to. Its socialistic system has helped in this regard. Cuba has made medical training a special priority and has

achieved the highest per capita number of doctors in the world mostly by making all education, including medical school, free. In the United States, medical school tuition costs around \$50,000 per year, and only the wealthy or those able to borrow and incur huge debt can go to medical school. The high cost of medical school here contributes to a scarcity of doctors, and the Obama Administration has recently expressed concern that this scarcity, particularly of general practitioners and family doctors, will make it very difficult for the U.S. to progress toward universal health care. Cuba is justly proud of its commitment to free universal health care and free medical education and considers Article 50 and Law 41 make essential contributions to good government and expressions of humanitarian concern. It should also be noted that Cuba's achievements in health care have come about despite the 50-year U.S. embargo, which has had the effect of denying needed medicines and medical equipment.



Labor Lawyers from the CTC and *Bufetes Colectivos*

Photo by Joan Hill

#### **D. The Role of the Labor Lawyer in Representing the Rights of Cuban Workers** **Francesca Prohenza Naranjo**

To start, the CTC had only four lawyers but later added lawyers in order to provide services to the provinces and municipalities. This led to the process of professional qualification and specialization in the area of labor law. Cuban lawyers in this area now provide all sorts of advice to the CTC and workers, for purposes of collective bargaining, discipline and discharge, and even teaching trade unionists.

One of the identified differences between labor law in the U.S. and Cuba is that in Cuba, the law includes both management and workers together, working towards a just society. Ms. Prohenza argued that partly because trade unionists are part of the legislative body in Cuba (People's National Assembly), and partly because no law impacting workers is implemented until after consultation with the CTC, workers' rights are included in the application of the law.

Many principles, norms, rights and protections are established by law or by the Constitution in Cuba. Specific examples included a recent resolution regarding salaries, or one in 2005 that decentralized and deregulated work, leaving many terms that were formerly established at the national level to local collective bargaining.

Labor lawyers in Cuba have a role to play in developing the competency of workers, training, and evaluation of performance, all of which is regulated in the enterprise. Since these factors are measured by the collective agreement and the specific position, lawyers must be involved in the regulation of these issues in the work centers. Trade unions have an inspection function, to make sure that management complies with the law.

#### **IV. Field Research**



##### **A. Felipe Herrera UBPC (Basic Unit of Cooperative Production) Reported by Lisa Brodyaga**

The UBPC Felipe Herrera was founded in October 1993, to produce the high quality tobacco leaves used to make cigars. It was formed when a number of people got together after the 1959 triumph of the revolution. The UBPC Felipe Herrera produces 17% of the leaves used as the external covering of Habana Cigars, produced primarily for export. The entire tobacco crop is sold to the State. The process of making a cigar entails 164 steps, of which 131 are done by hand.

In addition, some land is set aside to produce vegetables, grains, greens, livestock, (hogs, cattle, and goats), and other foodstuffs, primarily for internal consumption. Any surplus is sold to the State. They also use worms to produce humus from waste.

There are forty-four production centers, and the profits are split equally among the 337 cooperative members, of whom 109 are women. Pay is determined by the final yield. At the beginning of the season, cooperative members receive an advance sufficient to cover two weeks worth of expenses. Thereafter, they are given partial distribution until the final tally is made, at which time they receive a lump-sum distribution. Distribution of the profits is based on each member's participation.

Average pay for cooperative members is 38,000 pesos a year, or 129 pesos a day - much higher than the national average. For this and other reasons, there is very little turn-over in the cooperative's membership. Most vacancies are due to retirements, of which there were 16 last year. However, retirees often continue working, and receive the same benefits. The rules for admitting new members have been developed over the years. Changes must be approved by a vote of 75% plus one of current members. New members are on probation for three months. Acceptance must be by a vote of 50% plus one, and is based on the applicant's conduct. Members can be removed only for serious infractions. The process is the same - vote by the entire membership.

We visited the facilities, which employ a variety of high-tech means of ensuring the quality of the leaves, both during the growth and curing stages. To avoid excess sun, the fields are partially shaded by light-penetrable coverings, and the drying barns are equipped with precise temperature and humidity controls. While there, we spent about an hour doing "volunteer" (symbolic) labor, planting yucca. The soil was rich, red with iron. The care given the soil is equaled only by that given the tobacco. It was explained that they were guided by a saying of Jose Marti - "the soil is only good if man is good to it." We were also treated to a fabulous buffet, typical of many of our site visits, except that this one was stocked entirely by home-grown fruits, produce, and other delicacies.

The coop is located near San Antonio de los Baños, which is famous for its sense of humor, and hosts annual humor fests. We were treated to several examples. A favorite was the tale of the visit of the Pope to Cuba. Walking down the Malecón with President Castro, a gust of wind caught the Papal headdress, and tossed it into the sea. President Castro immediately walked across the water to retrieve it and return it to the Pope. The incident was reported in newspapers around the world. The Cuban papers marveled at President Castro's ability to walk on water. The Vatican paper reported, cryptically, that he had rescued the Pope's hat. But the Miami papers blared about how useless President Castro was: he didn't even know how to swim!

A second one shows the dry Cuban humor in the face of the problems caused by the dual currencies adopted during the "Special Period," and the inequalities due to the fact that those who have contact with tourists often receive tips or partial pay in hard currency. It involves a woman who consulted a psychiatrist, seeking help for her husband. "What's the problem?" asked the psychiatrist. "My husband is forever going out on the balcony, and shouting that he is an elevator operator." "And what's wrong with that?" queried the psychiatrist. "He's a brain surgeon," came the reply.

The solution to his problem - and those of the rest of the Cuban population - is underway. Recent measures have begun the process of integrating the currencies, and leveling the pay disparities, without sacrificing either the gains or goals of the revolution.



**B. Carlos Rodriguez Primary School  
Reported by Joan Hill**

This elementary school is named after a revolutionary. We were taken to the computer science lab where there are 18 computers, and three instructors. There is no internet connection for the students. The facility also houses a library. A book fair will be hosted in the town (Artemisia) later in the month. There are 440 students in this school, and 67 workers, 44 in the classroom. There are also lab technicians, librarians and language therapist. There are teachers for the field of physical education and one nurse.

Students take exams to move or graduate to the next grade. Teachers receive “incentive” pay over their base salaries based upon the evaluation of the quality and outcome of their work. If children achieve or surpass the objectives of their grade, then the teachers get a very good evaluation and receive a monetary incentive, approved by their union.

All members of the staff (teaching and non-teaching) are members of the trade union. We were informed about the process of resolving complaints between the union and the administration. There is an Organ of Labor Justice in the school which as previously discussed in part I, can solve complaints or claims of workers or punishment as applied.

The nurse is available for both students and staff. The nurse provides education talks about health and includes the parents in the health education too. Special-need students are provided with a language therapist, who helps with both learning disabilities and behavior disorders. Family involvement is key to the assessment and services provided to these students.



Director Jocelin Acosta with Elio Valerino (CTC) Photo by Joan Hill

### **C. Psychopedagogic Center Reported by Mark Schneider**

We visited the *Centro Psicopedagogico Ismaellilo* (“Ismaellilo Psychological Teaching Center”) in the town of Artemisa, Province of Havana. It is a holistic residential program that treats children with severe developmental disabilities (i.e., mental retardation). Jocelin Acosta Perez, the Director, led the discussion with us. She is an R.N. Victoria Acosta, the Founder of the program (and still a direct caretaker) also talked with us. Other representatives of the Center and Municipality, including provincial and city union leaders, also participated.

The name of the center “Isamelillo” is based on Jose Marti’s nickname for his son Jose Francisco Marti. Marti published the book of poems dedicated to Ismaellilo while in exile in New York City in 1882. He was exiled from Cuba by Spain for his role in the Guerra Chiquita (The Little War). In the book, Marti called on his son to follow in his footsteps to fight for freedom and independence. Ms. Acosta read the dedication of the book “Ismaellilo” to us:

Son:  
*Frightened by everything, I take refuge in you.  
I have faith  
in the betterment of humanity, in a future life, in the worth of virtue, and in you.  
Should others tell you that these pages are like others,  
tell them that I love you far too much  
to thus profane you. Thus as I paint you, thus have these eyes seen you.  
With festive raiments you appeared to me.  
When I have ceased to see you in that way,  
I will have ceased to paint you.  
Those streams so flowing through my heart.  
Let them reach yours!*

The center has 33 workers. They have doctors, nurses, physical therapists, rehabilitation specialists, a social worker, a dietician, a psychologist and other technicians.

The goals of Center are to provide rehabilitative, preventative, and primary care. The residents are profoundly developmentally disabled. They all require institutional care. There are service workers who physically care for the children. It is a long and slow process. Attention is given to hygiene and nutrition. Each child gets individualized care, based on their needs.

While none of the resident children can be educated in a formal sense, the Center helps the children achieve many important skills, such as toilet training and asking for water. Once the children turn 16, they go back to live with their families and receive community health care.

There Center treats 20 children on both an in-patient and outpatient basis. Right now, there are ten residents, and the agency provides direct services to rural households with ten more mentally disabled children. However, the Center does not have a vehicle. The other children that they serve cannot be brought to the facility for treatment because of the transportation problem.

Ms. Acosta explained that other facilities provide outpatient and polytechnic care for educable kids. There are also rehabilitation homes for educable children. There is day care for Downs Syndrome children with other levels of learning ability.

In 1963, the Cuban government started providing care to the severely retarded. This was when the first home for mentally and physically impaired was established. Before that families had to care for their disabled relatives. There is now a network of institutions to help the developmentally disabled. In 1995, a pilot program was started in Havana City of comprehensive program care for developmentally disabled children. Now, it is all over the country.

There is interaction between the family, the individual, and society. It promotes care. The focus is on modern medicine. Teaching is emphasized, using the most modern and effective methods.

The Artemisa facility works in two directions – institutionalized care and community care. The facility was dedicated by Ramiro Valdez Menendez, a hero (and commander during) of the Revolution and subsequently Minister of the Interior. It was intended to provide help to the families of disabled children, as well as providing mental and physical care to the children. One purpose of the center is to allow mothers of the children to be free to do other work rather than be full time caretakers.

Cuba is beginning barrier free construction. New buildings are accessible. The country is also aware of the problem of access in existing construction, and is fixing sidewalks and building ramps into them as funds become available. There is an association of disabled people in Cuba. The Director told us, “You need political will to remove physical barriers.”

According to Ms. Acosta, at the Center they try to give a lot of love and the best care possible. These goals are difficult to achieve a lot because of the severity of the childrens’ disabilities. Kids used to be left in a corner of the house and not integrated into society. Now,

after the Revolution, the State pays for care for developmentally disabled. This is one of the great achievements of the Revolution.

The Center has no trouble keeping staff, despite the hard work (physically and emotionally). The staff loves the humanitarian work – that is why they do it, according to the Director. There are no vacant jobs. The Center is one of two institutions that does this type of work in the Province of Havana (there are others in the City of Havana).

We were very impressed by the motivation of the workers at the Center, despite their low pay. The other workplace benefits, as well as their patriotic and humanitarian commitment, seemed to inspire the workers doing these very difficult jobs.



#### **D. CTC Provincial School Reported by Joan Hill**

Following up the presentation by the director of the CTC National School, delegates were able to witness the education programs of the CTC first-hand. This facility in Havana Province has four houses for sleeping quarters as well as classrooms and a computer lab. There are 21 professors at this school, along with 25 other workers. The teachers develop curriculum for the classes, and receive a salary of about 325 pesos/month. Most of the courses are specialized for trade union leaders, and include topics such as legislation, collective bargaining, leadership and economics. Most leaders get comprehensive training at first, then specialization. All full-time leaders within the CTC receive this program, which lasts for two years. Some trade union leaders are still working in their centers, but can take advantage of educational programs there.



**E. COMEG**  
**Reported by Matt Rinaldi**

The delegation had the opportunity for a late-afternoon visit to COMEG on the outskirts of Havana Province, an acronym for the *Empresa Conformadora de Guanajay*. This facility occupies 13,000 square meters and employs over 260 workers organized in the metal workers union of the CTC.

COMEG workers, organized as teams, include mechanics, welders, electricians and painters. They produce metal containers for dry cargo, rehabilitate school buses, build refrigeration units and ventilation units for trucks and public transit buses, and fabricate and maintain special trucks for the transport of oxygen tanks for medical use. On the day we arrived over 400 new ambulances were in the yard waiting for shipment. The bodies had been manufactured by Mercedes-Benz; the finishing work had been done in Guanajay.

One of the most striking features of this production facility was the apparent integration of European machine parts into the overall production process. The large painting facility had major vehicle moving equipment imported from Belgium. COMEG illustrated that Cuba has found some ways around the U.S. blockade. When asked how an end to the blockade might improve the situation at COMEG, the answer was simply that allowing Cuba to trade without interference might lower the cost to Cuba of imported raw materials.

The COMEG facility was also striking for its integration of both safety and health care into the workplace. Classrooms were available for safety instruction and union meetings. A medical facility was on the grounds for on the job injuries, the most common of which was described as being injuries from metal fragments. For serious injuries there is immediate transportation available to the local general hospital, the Hospital General de Jose Ramon Martinez.

But the health care facility at COMEG does more than just respond to injuries. Workers and their families can obtain examinations and initial treatment from doctors specializing in ophthalmology, dermatology, urology, gynecology, hypertension, diabetes, gastroenterology and dentistry. The clinic is open throughout the workday.

As Cuba continues to implement its program to provide workplace compensation based increasingly on productivity, it was made clear that the workers at COMEG are both highly skilled and highly compensated. This wage differential is combined with the basics of education, health care, essential foods and housing provided in Cuba as part of its self-definition as a socialist state.



Photo by Joan Hill

#### **F. Havana Club Rum Factory Reported by Joan Hill**

The importance of rum production to Cuba cannot be overstated. Cuba is in the cradle of light rum; a tradition of rum production for centuries has made it an expression of Cuban culture.

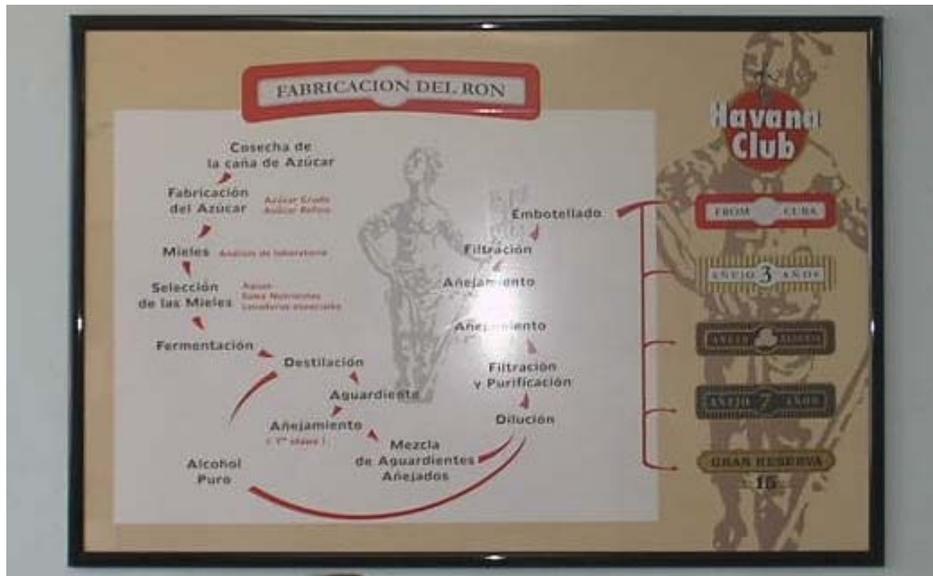
The Rum Master Juan Carlos Gonzalez described the production process. The process begins with harvest of molasses from the sugar crop. Molasses in Cuba is unique because of the sugar cane, climate and soil. As they say, the raw materials carry the character of Cuba. When molasses comes to the factory it needs to ferment with yeast, and in the case of Havana Club, there is a unique yeast used in this process as well. This “aging” process is closely watched. There is also a distilling process, where the alcohol or “spirit fire” is separated. This gives the rum an aroma pattern. There are three separate aging processes. After the first stage of the process, the spirits are mixed and aged again. During the third stage, the rum is aged in oak barrels, producing the final product. Havana Club produces three year rum, seven year rum and the rarest, “Centenario,” a complex blend of rums of various ages, including a small amount of 100 year old rum.

After a tour of the facility, delegates met with trade union leaders of the worksite, who explained the dues system (1% of base salary). There is a treasurer in each local union; workers pay their dues directly to the treasurer. 10% of dues payments are retained by the local for membership activities.

There 425 workers at this plant outside of Havana, but there are many more workers across the country, working for various brands of rum. Salaries range at a minimum of 225 to the maximum of 700 pesos per month. The average salary of these workers is 425 CUP.

Workers reported on the decrease of rum production due to closing of many sugar factories, following which the former sugar workers were retrained and given additional education while being paid their regular salary.

Most terms of work are contained in the collective agreement, including transportation (provided to and from work), on-site health care including both treatment of disease and injury and routine physical examinations, safety, meals for workers, retirement, and the participation of the trade union in the decision making of the enterprise.



## V. Conclusion

Veteran U.S. delegates came away from this visit believing more strongly than ever that not only trade unionists, but also people in the United States generally, have much to learn from the Cuban experience, as do Cubans from ours. As we debate the affordability of universal health coverage in the world's wealthiest nation, the insurance industry seeks to protect its profits by flooding hopes for a "public option" with fears of faceless bureaucrats. In this context, struggling Cuba's ability to build and maintain a free, humane, universal single payer health care system in the face of a decades long economic crisis (caused in part by the U.S. blockade) speaks volumes. Moreover, delegates' imaginations were inspired by the active participation of the Cuban trade union movement, at all levels, from workplace assemblies to worker education to collective bargaining to legislative drafting to legal representation, in redesigning the countries' policies on pay and productivity in an effort to enhance workers' livelihoods and hasten the country's recovery from the depths of the "special period."

As stated at the outset, this delegation was the first in a decade to travel to Cuba at a time of genuine hope for substantive change in United States policy towards Cuba. Given the election promises of the Obama Administration and clear indications by the Cuban government, U.S. delegates believe that the next several years present the best possibility for positive change in the areas of travel, remittances and ultimately the blockade, since these research exchanges began ten years ago.

Delegates will continue their study of the realities of workers' lives in Cuba in 2010. Information regarding the fully-licensed program can be obtained from Bob Guild at Marazul Charters, [bguild@marazul.com](mailto:bguild@marazul.com), or Marazul program consultants Dean Hubbard, [deanhub@gmail.com](mailto:deanhub@gmail.com), and Joan Hill, [johill@usw.org](mailto:johill@usw.org). Copies of the reports of previous delegations are also available on the Labor & Employment Committee website: <http://nlg-laboremploy-comm.org>.

### ***SIEMPRE EN LA LUCHA,***

***Kurt Berggren***, Ann Arbor, Michigan  
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***Mercer "Monte" Givhan***, Jamaica, New York  
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