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NOTES 7**



workers in Cuba: unions and labour relations

**DEBRA
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about the author

Debra Evenson is an attorney and president of the Latin American Institute for Legal Services. She is a well known expert on Cuba and author of the book *Revolution in the Balance: law and society in contemporary Cuba* as well as numerous articles on Cuban law and society.

This publication, like all publications of the Institute, represents not the collective views of the Institute but only the views of the author. The responsibility of the Institute is limited to approving its publication as worthy of consideration within the labour movement.

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foreword



The publication of this booklet in England has arisen from a chance meeting in the Cuban equivalent of Congress House between members of a visiting T&G aviation workers' delegation and Debra Evenson, the author, in February 2002.

Debra had just finished writing a much longer report on Cuban industrial relations and employment law that she was introducing to the Cuban trade union leadership, our delegation was almost ready to leave for the airport and fly home when one of our Cuban hosts thought we may like to meet Debra and so we were able to bring a copy of the longer work home with us.

Since 2002, we have been conducting a triangular correspondence between the T&G in London, Carolyn Jones at the Institute and Debra in Havana turning the longer work into the *Comparative Note* that you have before you.

The T&G is extremely pleased to be associated with the publication of this booklet, not least because it makes concrete the work our Region of the T&G has been carrying out with the Cuban labour movement and the Cuba Solidarity Campaign in the UK.

Readers will be impressed that this booklet is no mere "fanzine". Debra reports on the Cuban unions critically recognising that, in the changing economic environment, there is a pressing need to equip its shopfloor leaders, its shop stewards, with the skills necessary for an effective presence in the workplace, such skills as representation on workers' rights and collective bargaining.

She also explains how, almost uniquely in the developing world, the unions in Cuba have negotiated a system that guarantees Cuban workers their domestic employment rights when working for foreign owned corporations.

A study of industrial relations and employment law in Cuba was long overdue; this booklet will hopefully bring the situation in Cuba to a wider audience.

Eddie McDermott
Regional Secretary
T&G (South East & East Anglia)

introduction¹

One cannot write about labour policy and labour relations in Cuba without a keen awareness of the polemic surrounding the issue of labour rights in a one party system such as Cuba's. The close relationship between the Cuban Workers Central (CTC), the unions and the Communist Party of Cuba has caused some outside observers to dismiss Cuba's trade unions as nothing more than state or "company unions" fronting for a non-existent labour movement. Such labelling, however, imposes severe limitations on serious exploration of the complexity of labour rights in the Cuban context and consideration of the potential in such a system for unions to give independent voice to workers' interests. Narrowing the frame of reference to a free-market, multi-party system not only poses the theoretical dilemma of presuming no other possibilities; as a methodology, it also lends itself to false comparisons and conclusions that impede rather than engender more profound examination. What's more, we are cautioned by ample evidence that workers and unions have suffered substantially in various multi-party settings, suggesting that the political system is not *per se* a determinant in the equation of workers' rights and participation in decision-making.

background

Today, as in the 1960s, transforming the economy is considered the most pressing task of Cuba's socialist government. The collapse of the Soviet Union in 1990 coupled with measures tightening the United States embargo against Cuba precipitated a profound economic crisis that threatened the survival of Cuban socialism. As a result of these external factors as well as internal deficiencies, the Cuban economy shrank by more than 40 per cent in just four years between 1989 and 1993, creating severe shortages of materials and goods. The standard of living of Cubans plummeted. Yet, against all odds, Cuba survived and in 1994 began a modest, but sustained recovery.

1 This article is adapted from a 92-page report published by the Guild Law Center for Social and Economic Justice in Detroit, Michigan. The primary research for this study was conducted between May 2000 and May 2001. The methodology consisted of a comprehensive survey of Cuban labour legislation and regulations, published literature, interviews and direct observation of the labour relations process on the shop floor and in workers' meetings, and attendance at municipal conferences and national union congresses. A panel of United States labour law and union experts provided ongoing consultation and advice throughout the project. This report was made possible by the generous support of the Arca Foundation, The Christopher Reynolds Foundation and the General Service Foundation.

The Cuban government maintains its resolve to develop a sustainable socialist model as the best means to improve conditions for workers and the population as a whole. There is no plan to introduce a market economy based on private enterprise, and any suggestions that Cuba should move in that direction are rejected. Forced to make substantial reforms since 1990, Cuban socialism has undergone a transition from a highly centralised economic model, patterned after that of the former Soviet Union, to one which maintains but moderates national government control of macro economic policy while introducing decentralised decision-making and management at the micro or enterprise level. Although the effects of the economic decline are still acutely felt, the reform process and the new measures being instituted have begun to improve the circumstances and prospects for Cuban workers.

It may seem axiomatic, but it bears stating that when the revolutionary government of Cuba nationalised virtually all private enterprises in 1960, it inevitably altered labour relations by establishing a socialist system that presumed the disappearance of contradictions between employer and employee. The principle of equitable distribution of resources replaced the motivation of private profit. Sweeping reforms yielded Cuban workers broad universal rights and guarantees not previously enjoyed, including the right to employment, equal pay for equal work, universal social security, a month's paid vacation, sick and maternity leave and free health care and education.

However, the bureaucratic nature of the centralised planning and administrative institutions modelled after those of the Soviet Union did not create conditions for active participation by workers and unions in policy development or workplace management. Highly centralised decision-making left little discretion to local enterprise management; government not only determined prices, allocation of resources and production plans, it also established salary ranges and regulated most aspects of work and labour-management relations.

Recent reforms have reorganised the Cuban economy, transitioning from a highly centralised economic model to one that maintains but moderates national government control of macroeconomic policy while introducing decentralised decision-making and management at the micro or enterprise level. In addition, Cuba has courted limited foreign invest-

ment, expanded the tourism industry and reformed its fiscal and banking systems. Although some reforms have produced inequalities, these and other measures have laid the basis for a modest, but steady, recovery since 1994 enabling Cuba to maintain and improve its national health care and educational systems and to improve social services.

Both the economic crisis and ensuing transformations define the context for labour relations and worker rights as they unfold in Cuba today. Without doubt, the restructuring of the economy has placed new demands on the labour unions, obligating them to shed the passivity of the 1980s and assume an increasingly active role as advisor and protagonist in both the development and implementation of policy. In the workplace, the decentralisation of the economy and centres of decision-making have introduced a new and unfamiliar environment for both labour and management requiring a significant change in the dynamic of labour-management relations. Solutions to problems are no longer handed down from higher up requiring greater initiative and creativity if the CTC, the unions and workers are to be true partners with management in the process of increasing productivity and improving salaries and working conditions.

trade unions in Cuba

Since its founding in 1939, the Cuban Workers Central (CTC) has been the only national organisation representing unions in Cuba.² Historically, the union movement has strongly defended unity in its ranks: the CTC rejected fierce pressures in the 1940s to purge it of communists and splinter its membership. Thus, the consolidation of that unity under a one-party system after 1959 does not represent a break from the tradition of a single national labour organisation that began with the founding of the CTC.

Nevertheless, both the function of the CTC and that of its 19 member unions have changed dramatically over the course of the past four decades. Today, the CTC and the unions take on a dual role in Cuba's socialist system: 1) to

² Until 1992, the CTC was recognised in the Cuban Constitution as the representative of Cuban workers. The explicit reference to the CTC was eliminated in amendments adopted in July of 1992.

further the economic, political and social interests of the country as a whole; and 2) to protect the rights and advance the standard of living of Cuban workers. As articulated by the CTC, “[t]his double role is grounded in the concept that workers are both employees and owners.”

Union membership is voluntary; but all workers have the right to join. There are approximately four million workers in Cuba; about 98 per cent are members of one of the national unions. The unions and the CTC are totally self-financed from monthly dues paid by their members and receive no subsidy or other material assistance from the government or the Party. Dues, averaging less than one per cent of salary, are personally paid to a local union official, not automatically deducted from salaries. The specific union representing a worker depends on the industry or sector of his or her workplace.

All workers, whether members of the union or not, have the right to participate in monthly worker assemblies, discussions and approval of the collective bargaining agreement, election of worker representatives to the workplace grievance panel and other activities not dependent on union membership.

relationship of the unions to the Communist Party and government

Fundamental to the Cuban socialist system is the concept of a collective social/economic project. Pursuant to Cuban socialist theory, workers are to be the direct beneficiaries of economic development in terms of both individual income and enjoyment of universal social services, thus creating a framework for management-labour relations in which both management and labour share a commitment to the same objective: a more efficient, productive economy that provides the economic basis for individual and collective security and benefits. It is this unity of purpose and exercise of power that provokes some observers to conclude that Cuban unions have no autonomy or independent capacity to represent Cuban workers.

The Cuban Communist Party determines the broad outlines of economic, political and social policy. As expressed in

the Constitution of the Republic of Cuba, the Communist Party "is the highest guiding force of the society and the State, which organises and guides common efforts toward the goal of constructing socialism and the advance towards a communist society".³ The CTC and the national unions adhere to the policies of the Communist Party of Cuba, which the CTC explicitly recognises in its statutes as the supreme political and ideological force in Cuban society. Thus, there is a close and interdependent relationship between the unions, the government and the Party.

Closer examination reveals, however, that the CTC, the Party and the government are not synonymous. As a legal matter, the CTC and the unions are "autonomous" organisations. Although the strong interrelationship between the unions, the Party and the government may temper traditional notions of autonomy, it also provides channels for union influence in the formulation of national policy, giving voice to workers' interests.

In practice, union influence manifests itself in multiple ways: the unions initiate regulatory proposals; they are consulted by both the Party and the government agencies on all matters concerning labour policy; there is ample union representation at all levels of the Party itself; and union officials are elected members of the national parliament, the National Assembly. In several instances, union input has led to significant changes in legislative proposals. For example:

- A proposed provision in the 1995 Foreign Investment law that would have permitted direct hiring of Cuban workers by joint ventures was scuttled in response to CTC opposition. The unions argued that direct hiring could leave workers disadvantaged by the potentially divergent practices of foreign management, and supported instead hiring through a state entity obligated to assure application of Cuban labour law.
- Proposed legislation altering the social security system has been returned to the drawing boards over objections raised by the CTC.
- The unions obtained suspension of implementation of a provision of the 1994 tax law requiring social security contributions by workers. The unions argued that salaries were still too low to bear this cost and recommended postponing implementation until wages had risen enough to make the contribution affordable.
- A new Labour Code is currently being drafted through the joint collaboration of the CTC and the Ministry of Labour

3 Constitution of the Republic of Cuba (1992), Article 5.

and Social Security (MTSS); an early draft, submitted to review at the 2001 Congress of the CTC, continues to undergo modification based on active CTC participation.

In addition to its participation in the legislative process, the CTC and the unions engage in continuous dialogue with government agencies at all levels which both keeps them informed of current developments and also provides official channels to press initiatives and to react to government proposals. Union leadership maintains close communication with the ministries that direct the enterprises in their sphere of activity, participating in the weekly and monthly meetings of ministry department heads. MTSS officials report that the CTC has input at all levels of decision-making in the MTSS, which regulate employment policy, salaries and social security.

In order to increase its expertise and, hence, its capacity to influence policy and represent workers' interests, the CTC has strengthened its infrastructure. In the mid-1990s, it created specialised departments including its own research department, a group specialising in collective bargaining and an expanded legal department.

the role of the unions in the workplace

Reorganisation of the state enterprise, in particular implementation of the new Decentralised Management System,⁴ confers broader authority and discretion on management and creates greater differentiation in the roles of management and labour, introducing new subjects for discussion and negotiation. Guidelines adopted in 1998 for the implementation of the decentralised management system specifically provide a prominent role for workers and unions in the development of the business plan as well as staffing and allocation of workers. The preliminary phase in the preparatory process is the development of a diagnostic report on the strengths and assets of the enterprise as well as the problems which must be resolved before it can enter the system. Workers, through union-organised assemblies, participate in this detailed evaluation.

The Decentralised Management System also stipulates that unions take a role in the development of all aspects of

4 The system is known in Cuba as "perfeccionamiento empresarial" or "enterprise perfection". It has its origins in experiments in decentralised management begun in the 1980s in commercial enterprises run by the armed forces.

the business plan which must demonstrate, among other things, that the enterprise has a market for its goods or services, a sound projected cash flow and an efficient allocation of its workforce, including management personnel. National union leadership urge local unions to be particularly involved in the design of the workforce and salary scales. The latter is obviously important since in many instances profitability may mean cutting or adding to the workforce in a given department. Moreover, workers in all enterprises have the right to participate in management meetings through their union representatives, and managers are required to make periodic reports on financial and other productivity issues at monthly worker assemblies.

This new context challenges the unions to become effective counterparts, representing workers' interests not only with respect to improved salaries, incentives and work conditions, but also with respect to increasing efficiency, productivity and profitability. National union leadership has focussed efforts on expanding the capacity of shop level union leaders to be more dynamic and assertive in their representation of workers as well as meaningful participants in management decision-making. The development of local leadership responsive to workers' needs is often expressed as an ideological necessity as much as a practical matter of better representing workers. Yet, the unions are dissatisfied with the pace of progress in this direction. Many local leaders continue to lack the knowledge, skill and confidence to be assertive and effective advocates.

trade union structure and internal regulations

The CTC, like other social organisations in Cuba, has a vertical structure consisting of a national office, provincial organisations in all 14 provinces and organisations in large municipalities. The 19 national unions have a similar national and provincial structure.

The lowest level of trade union organisation is the union section (*sección sindical*), the departmental or shop level union organisation. The trend has been to reduce the size of the union sections in order to create a closer relationship between the union leaders and the workers enabling the lead-

ership to better represent the workers. Union section elections take place every two and a half years. Candidates for office are nominated by the workers and elected by secret ballot at the worker assembly. Generally, there is more than one candidate nominated for each office making elections contested.

The level of union organisation above the union section is the union bureau (*buró sindical*). The union bureau is similar to the “local union” in the US. A single workplace with more than one union section may have its own bureau or even two or more if there are several large plants. The bureau represents the workers before management in negotiations of the collective bargaining agreement, in disciplinary matters and other issues of concern to the workers. The members of the bureau are nominated and elected by the members of the union sections every two and a half years, but unlike the leadership of the union section, bureau officers are professional union workers paid by the provincial unions and generally do not hold jobs in the enterprise.

development of internal policy: the CTC Congress

Each national union as well as the CTC holds a congress every five years at which recent developments are analysed, issues of importance discussed, leadership elected and resolutions guiding activities for the next period adopted. In the interim between congresses, the unions organise municipal and provincial conferences as well as meetings of the national leadership. The CTC held its 18th Congress at the end of April 2001. The year-long preparations begun in April 2000 entailed a broad process of discussion and consultation at all levels of the union structure.

Early on in the process, the CTC commissioned a survey of worker opinions. More than 60,000 union sections participated. Results indicated that the majority of workers (53.9 per cent) felt that preservation of labour unity was the most important achievement of the union movement since 1996. Not unexpectedly, the greatest dissatisfaction (39.5 per cent) concerned salaries. Among the top issues proposed for discussion at the Congress was that related to “attention to workers,” a broad concept that includes work conditions,

transportation, meal services and other needs of workers and their families such as housing. This survey as well as conferences and workshops organised throughout the year shaped the discussions held at the Congress.

The major themes of the Congress focused on 1) economic policy, including productivity, employment and compensation issues; and 2) union organisation and work, primarily effectiveness of union representation and participation in collective bargaining and workplace decisions. In addition to the 1,600 elected delegates, ministers and high level government and Party leadership attended the Congress. Since solutions to many concerns required government action, officials present were called upon to respond to issues raised. The Congress adopted resolutions concerning a wide range of subjects, including collective bargaining, the role of the unions in the state enterprise, salaries and incentive systems.

compliance with ILO Conventions on Freedom of Association

Although the minutes of the discussions in the ILO Commission of Experts are replete with the polemic and rhetoric that has characterised the polarised debate over Cuba for many years, the issue of Cuba's compliance with Convention 87 on the "Freedom of Association and Protection of the Right to Organise" comes down to two fundamental issues: 1) does Cuba's legislation confer a monopoly on a single trade union organisation; and 2) do workers have the freedom to organise trade union organisations of their choosing? With respect to the first, since 1992 a series of modifications to Cuba's Constitution and legislation have eliminated references to the Central of Cuban Workers (CTC) as the national organisation of Cuban workers substituting instead references to "trade union organisations" in general thus opening the way as a legal matter to the emergence of another national trade union organisation. With respect to the second, Cuban law permits workers to freely form trade union organisations and does not require such organisations to register with any state agency in order to function or to have legal personality.

Thus, in response to the specific observations of the

Commission, the Cuban representatives have pointed out repeatedly that Decree-Law 67 of 1983 which required state administrative bodies to consult with the CTC on labour issues was repealed in 1994 and the current legislation does not specify the CTC or any other as the trade union organisation to be consulted on issues related to labour policy. The Cuban Labour Code in force since 1985 also makes specific reference to the CTC although it does not state that it is the only recognised national federation of trade unions. Cuban government officials have also reported to the Commission since 2001 that the Labour Code is being revised and further assured the Commission that the new Code will adopt the necessary revisions to eliminate specific mention of the CTC. The reason it has taken so long to adopt a new Labour Code has nothing to do with the complaints of the ILO. The process involves very broad, continuous consultation and review of drafts, including review by all of the unions and their members.

With these legislative and constitutional changes, Cuba has eliminated the legal barriers for the formation of a national trade union organisation parallel to the Central of Cuban Workers. As noted, Cuban law has never conferred or recognised the exclusive right of any particular union organisation to represent workers at an enterprise or other work centre. Further, as described elsewhere in this paper, elections of union officers at work centres is open and competitive.

Despite these affirmations by the Cuban representatives, the Commission continues to issue harsh statements, including a call to send a delegation to Cuba for “direct contact,” a measure not always undertaken in cases of more serious violations of ILO conventions. So, why is the Cuban case so polemic?

As with many aspects of Cuban society, the question of union organisation is not simply one of internal politics but involves the actions of outside actors whose express objective is to foment, if not force, changes in Cuba’s economic and political system.⁵ Since at least the early 1990s, it has been the express objective of the US government to promote and assist in the formation of so-called “independent” trade union organisations in Cuba and to use the alleged lack of union freedom as the basis for continuing an aggressive policy designed to undermine the current government. US State Department reports on worker rights in Cuba exclusively

5 Since 1963 the United States has imposed an extensive economic embargo on Cuba which affects not only bilateral trade but also Cuba’s ability to trade with third countries. Additional sanctions were adopted in 1992 and 1996 with the express objective of destabilising the Cuban government. The Helms-Burton Act passed in 1996, is explicit in furthering US policy of support to internal groups seeking to abolish Cuba’s socialist system.

focus on the issue of “independent” unions and ignore all of the other substantial rights and gains obtained by Cuban workers as well as their influence in both the workplace and on national policy exercised through their existing union organisations.⁶ Sadly, the same is true of reports of other human rights organisations such as Human Rights Watch.

Between 1992 and 1998, complaints presented by the International Confederation of Free Trade Unions (ICFTU) against Cuba with the ILO for violations of Convention 87 on the “Freedom of Association and Protection of the Right to Organise” and Convention 98 on “collective bargaining” alleged that Cuba prohibited or impeded the free formation of trade union organisations by denying registration to a hand full of groups alleging themselves to be trade union organisations. Although each refers to both Convention 87 and Convention 98 (the Right to Organise and Collective Bargaining), none of the complaints allege any restriction of the right to collective bargaining. As described in this report, Cuban law both protects and promotes the negotiation of collective agreements between the unions and employers.

The Cuban government responded to each of the complaints, stating that 1) trade union organisation is statutorily protected in Cuba and registration is not required for the formation of a trade union organisation with legal personality; and 2) it could not identify or had no knowledge of the existence of the alleged organisations. Indeed, the organisations were quite small generally having from two to five members although size does not impact in any way on the right to organise. It seems apparent from the information supplied both by the complainants and the Cuban government that none of the groups claiming interference with their organisation had any base of support however small at any workplace in Cuba. Rather, they are composed of a small group of individuals whose only labour relationship with each other was the formation of the trade union organisation.

Since Cuban law explicitly states that no prior authorisation is required for the formation of a trade union organisation, it is not clear from the ILO Commission reports why the various complainant organisations insist that their right to organise is violated by failure to permit them to register with the Ministry of Justice. A political or social organisation would be required to register to obtain legal personality, but not a trade union organisation. None of the local or national

6 These rights and functions are described elsewhere in this paper.

union organisations active in Cuba are so registered. The leadership has legal authority to represent the workers before management by virtue of having been elected by the workers to do so.

As far as this researcher has established, it is not official practice or policy to fire workers on the basis of membership in one of the complainant trade union organisations. Cuban law is quite specific on the permissible reasons for firing employees, and union or political activities or political views are not among them. Moreover, as evidence that Cuba does protect a worker's right not to be penalised for union or political activities, workers have been reinstated or benefits restored when this principle is violated. In a case before the ILO in the late 1990s involving a university professor found no longer qualified for his position because of his political activities, the Cuban authorities, after investigating the situation, ordered his reinstatement.

The fundamental impediment to the creation of a national trade union organisation parallel to the CTC or the creation of a union to represent workers in a particular work place or trade is not legal but practical. The unions that represent workers in the work place are becoming stronger and more pro-active in their role as defenders of workers' interests, negotiating the collective agreement and participating in management decisions. At the same time, the CTC promotes greater activism among the work place unions and itself wields increasing influence over national labour policy. On the other hand, the complainant organisations do not profess to represent any unions or even have a base of workers at any work centres. Without a base of support among workers, the prospects of building a new organisation to represent workers' interests before management are negligible and achievement of any influence on national labour policy will be frustrated as a practical matter.

Moreover, the apparent ties that these groups have with outside organisations and governments whose policies toward Cuba are hostile to the socialist government create an additional impediment as they are perceived as representing outside interests, not Cuban workers. Whether this characterisation is fair in all cases or not, it is undeniable that the economic sanctions imposed by the US government to force Cuba to renounce socialism in favour of a free enterprise system have increased dramatically in the last decade, making

economic recovery and satisfaction of worker needs all that more difficult. Statements of two of the more prominent “dissident” groups in the last several years, call not for further democratisation of socialism, but for the establishment of a free enterprise, capitalist system.⁷ It should not be surprising that the affiliation of the so-called “independent” unions with that agenda is met with resistance by Cuba’s unions who approach even foreign investment with caution to assure maintenance of the labour protections gained under the current socialist system.

As a theoretical matter, socialism does not require for its survival that there be a single labour organisation. However, given the historical development of a single unified labour federation in Cuba since 1939 and taking into account the enormous efforts by the United States to destabilise its socialist system, the call for unity is strong and, thus, there is little space for the insertion of new organisations whose agenda is perceived to undermine Cuban socialism and independence. Yet, even the *de facto* existence of a single national labour federation does not *per se* mean that Cuba’s unions lack the independence necessary to defend and represent workers’ interests. As noted earlier in this paper, the strong relationship between the CTC, the national unions and the Party in Cuba does not undermine the unions ability to act autonomously as the counterpart to management and to represent labour’s interests in the development of national policy.

labour bar in Cuba

Until fairly recently, the CTC and the unions did not have their own legal counsel. In early 1994, the CTC retained the services of the National Organisation of Law Collectives, Cuba’s legal services organisation, to provide specialised legal assistance to the national unions. A team of young, dedicated specialists formed in response to this request provides advice to the unions on legislative and regulatory proposals, collective bargaining issues and grievance procedures. They also provide training in labour law and regulations to local union activists so that they can better represent workers. The initiative of the unions to develop this legal resource is indicative of the general strengthening of their capacity to represent worker interests and to assume a more active role in policy

7 The two proposals referred to are the petition for a referendum known as “Project Varela”, and “Letter of Fundamental Rights and Responsibilities of Cubans” promoted by the Moderate Opposition’s Reflection Group.

making. Financial limitations, however, have prevented the unions from contracting enough lawyers to meet their needs.

employment and hiring policies

One of the basic tenets of the Cuban system is that every person has the right to a job and that the state has an obligation to provide jobs for everyone who is able and wants to work. Employment is not left to market dynamics. Rather, the development of strategies to deal with unemployment and idled workers is a collective effort involving several governmental entities in consultation with the unions. Policies to make investments in areas hard hit by the economic crisis have helped to reduce unemployment from a national average of eight per cent in the mid-1990s to about five per cent in 2001. Special programs enhance opportunities for women, disabled workers and other disadvantaged workers, such as those recently released from prison.

During the first half of the decade, tens of thousands of Cuban workers were idled as factories were paralysed by lack of fuel, spare parts and raw materials. All idled workers maintained their link to their workplace and received a subsidy from the state until they found new jobs. In recent years, as the economy begins to recover, the employment problem is shifting from being one of long-term interruptions to that of displacement of workers resulting from the reorganisation of the state enterprises. Such displaced workers receive assistance in finding new employment and a subsidy for up to four and a half years.

In an historic decision, the Cuban government announced in summer 2002 that it was closing a large portion of its sugar mills and reducing the land allocated to sugar production. Sugar has long been the mainstay of the Cuban economy but extremely low market prices and the need for substantial modernisation of aging mills forced Cuba to confront

the reality that its sugar industry was a drain on rather than an asset to the economy. The implications for the workforce are dramatic and difficult. Not only will more than 200,000 workers need to find work in other industries, but the decision will disrupt the lives of whole communities that for more than a century revolved around the local sugar harvest and the mills. The government has committed to retraining more than 100,000 workers to work in new fields, from construction to computer science, etc. A substantial portion of the remaining workers have been offered new jobs in agriculture; a number are of retirement age and will receive their pensions and those who are idled will receive 100 per cent of their former salaries until they have found placement in new employment.

This ambitious plan to absorb the enormous impact of closing the mills and reducing sugar production all at once is fraught with difficulties, both for the unions and the government. Meetings were held with the workers at every work centre to explain the rationale for the decision and to seek suggestions from workers as to how best to implement the decision. Both psychologists and sociologists have been assigned to assist in the changes needed and to assess the social impact. In addition, the government will have to invest efforts to help communities tied to the sugar industry to find a new identity.

employment contract

The minimum work age in Cuba is 17. Almost all Cubans working in state owned enterprises apply to and are hired directly by the entities that employ them. All employees are covered by an individual work contract as well as a collective bargaining agreement that specify employment qualifications, work rules and the reasons and procedures for termination. In order to dismiss a worker, management must show cause as provided by law and the employment contract. Employees may terminate a work contract upon giving the requisite notice.

In state enterprises, unions and workers participate in the hiring and promotional decisions. Although the new decentralised management system grants sole discretion to management to make such decisions, legislation permits the creation of an advisory body called the "commission of experts"

comprised of union, worker and management representatives. Once constituted, management must consult with this commission on hiring and promotional decisions.

Pressures for greater efficiency have resulted in the introduction of new employment requisites as “*idoneidad demostrada*” or “*demonstrated qualifications*”, eliminating the absolute privileges of seniority. Workers, who once were secure in their positions as long as they showed up most of the time and complied with work rules, now must strive to meet performance requirements. These requirements and procedures for measuring them are increasingly incorporated into the collective bargaining agreement.

Cuban workers have considerable mobility, particularly at positions lower than management, although transferring from one city to another is generally difficult because of the difficulty of obtaining housing unless the new work centre supplies it. In some work centres, worker stability is a problem, and management together with the union seek ways of making work conditions attractive to keep the workforce steady.

technical training and retraining

Cuba has a highly educated work force in comparison with other countries in the region. Almost every worker has completed at least nine years of primary and secondary school education and most have graduated from secondary school or have advanced degrees. In the effort to elevate the qualifications of the Cuban work force to keep the economy competitive, the ministries offer training in new technologies. Such courses are free and workers are given paid time off to take them.

occupational health and safety

Although regulations protecting workers from workplace hazards have existed for many years, the measures and inspection procedures were frequently not implemented adequately by either management or the workers. The economic crisis only exacerbated the situation, making it increasingly difficult

for Cuba to obtain protective clothing, masks, helmets, goggles and other items. A new campaign initiated in the late 1990s by the unions and the Ministry of Labour and Social Security calls for stronger regulations, strict implementation and increased awareness of workers and management of the need to reduce risks.

Cuban workers have the right to refuse to work in situations that place their life and health at risk. Workers and union officials report having exercised this right in instances where protective gear was not available or where conditions were unsafe. Disciplinary measures may be imposed on managers who fail to implement health and safety measures, and even criminal penalties may be invoked in cases of gross negligence.

salary and other remuneration

The struggle to make ends meet is the number one issue for most Cubans today, making worker income a primary concern of the CTC. This was not always the case. Prior to the 1990s, most Cubans had excess income and workers had confidence that their salaries or pensions would be adequate to assure a decent standard of living. However, the disappearance of the socialist market in Eastern Europe deprived Cuba of food products as well as consumer goods which it could previously sell to the population at affordable prices in pesos. Now that these goods must be imported for hard currency or produced in Cuba at substantially greater cost than those previously supplied by Eastern Europe, the buying power of the Cuban peso has sharply diminished to the point that ordinary workers struggle to make ends meet on their peso salaries alone.

The government and Party alike are well aware that the system must be able to provide a higher standard of living to workers if socialism is to survive in Cuba in the long run. As

one researcher put it, Cuba has to demonstrate that “socialism does not mean being poor”.⁸ While free market economists argue that the only way to increase wealth is through private enterprise, Cuba’s strategy is to increase the efficiency of its state enterprise system as the means to improving the standard of living of the general population and maintaining social guarantees.

salary scales and systems

The foreign press habitually reports that the average Cuban worker’s base salary translates into a relatively few US dollars at current exchange rates.⁹ However, such calculations lead to a false comparison that ignores essential factors such as the minimal amount Cubans spend on housing (no more than 10 per cent of salary) as well as the wide range of benefits, including free health care and education as well as subsidised goods and services at minimal cost available to all Cubans. Although the standard of living for Cubans has fallen dramatically since 1990 in terms of access to consumer goods, Cubans fare well under indices of human development and equity established by the United Nations Development Program, ranking among the top three countries in Latin America in 1999.¹⁰ Nevertheless, although Cuban workers are far better off than workers in maquiladoras¹¹ in other parts of the region like Mexico and El Salvador, the struggle to make ends meet is the number one issue for most Cubans.

Base salary ranges are still regulated by the MTSS, and the range of salary differential remains low: the salary of the average production worker was 249 pesos in 2000 compared to 550 pesos paid to the heads of ministries. However, new programs permit higher remuneration for workers in profitable enterprises. Under these systems, workers receive a fixed base salary plus payments of monthly incentives that are pegged to productivity, efficiency or improved quality; what is called “salary based on results of work”. About one third of Cuban workers now receive such incentives either in hard currency or its equivalent posted to a debit card or in Cuban pesos. Such incentives may more than double a worker’s monthly income. Consistent with the national policy of decentralisation, such programs shift control over worker income from being the exclusive domain of the MTSS to being determined at the enterprise level, directly dependent

8 Interview with Hiram Marquetti Nodarse, researcher at the Center for the Study of the Cuban Economy, Havana. 10 May 2001.

9 By such calculations a salary of 260 pesos in 2003 translates into about \$10 at the prevailing exchange rate at Cuba’s currency houses.

10 Investigación sobre desarrollo humano y equidad en Cuba 1999, Centro de Investigaciones de la Economía Mundial (UNDP: Havana, Cuba 2000).

11 Maquiladoras is a term used to refer to assembly plants established with foreign capital (mostly US) in Mexico and Central America. Most parts are imported, the products assembled and then exported. The fundamental (and well documented) characteristics of these plants are the severe conditions of work and intense exploitation of the marginalised workforce.

on the ability of management and labour to increase efficiency. This shift compels the unions to equip their shop level leadership to participate effectively in workplace decisions.

The same flexibility, however, is not present in sectors financed by the national budget or in those institutions which are self-financed like the unions themselves. Although workers in public service jobs are often given rewards in the form of appliances and other goods, their salaries continue to lag behind the income of production workers or those in the tourism industry who receive tips in addition to their base salaries.

collective bargaining

Collective bargaining in Cuba is very different from that in capitalist countries. All Cuban employees are covered by a collective agreement at their work centre: not only are the workers at every workplace unionised, but a collective agreement between the union and management in every enterprise or employment entity is obligatory under Cuban law. Since a broad array of rights in Cuba are protected by national legislation,¹² the areas of bargaining are more limited than in free market economies and for many years the collective agreement was of little practical significance.

However, as the enterprise has become the arena of decision-making affecting its profitability and the prosperity of its workers, the collective agreement is no longer a redundant formalism but an important, if not the primary, instrument governing essential aspects of labour-management relations. The policy of creating incentives based on efficiency and earnings opens new areas for worker participation and bargaining. Although the upward limits on salary incentives is established by the government in most state enterprises, the unions may negotiate guidelines for implementation in the work centre, including the basis for calculation, requisites for entitlement, evaluation of eligibility, etc. Base salary, itself, is subject to negotiation within specified ranges in the enterprises entering the new Decentralised Management System.

¹² For a list of essential rights protected under Cuban law, see the section of this report entitled "Background".

Other subjects not dictated by legislation must be bargained for with management, such as transportation services, work clothes, worker training, etc.

The challenge for the unions has been to develop the capacity of workers and unions to perceive, express and obtain necessary provisions with sufficient clarity to effectuate compliance. At the beginning of the decade, Cuban unions had no experience in drafting and negotiating collective bargaining agreements in the context of local management discretion. A number of European and Canadian unions as well as the International Labour Organisation have provided assistance to train Cuban labour leaders. From all accounts, there is a long way to go to bring local leadership up to speed on drafting and negotiating. With the collaboration of Danish unions, the CTC published a manual on collective bargaining to train local union officials. Provincial and national leadership, as well as labour lawyers, continue to provide consultation to the local unions and review drafts before they are finalised.

The initial stage of the drafting and bargaining process may take different routes. Frequently, there are industry-wide issues which are discussed by provincial or national union leaders with the pertinent ministry, the result of which may be an agreement on general measures to be included in the agreement of every enterprise in the sector. In some enterprises, the process is primarily undertaken by local union leaders, but generally the provincial union works with the local union in the final drafting of the agreement to be negotiated with management. In most cases, the local union or the provincial union consults with the national office when there is a dispute with management over a clause which they are not able to resolve. Regardless of where the process starts, workers (both union and non-union members) are consulted both before and during negotiations.

Most places of employment sign a new collective agreement annually or bi-annually. By law, the process of drafting and approval requires the participation and collaboration of the workers, the union representatives and management.

In 2001, the CTC obtained changes in legislation regulating collective bargaining to permit greater flexibility so that the agreement may be better tailored to the circumstances of each workplace. Thus, the regulations no longer list all the specific items which must appear in the agreement, but

rather outline general topics for negotiation, leaving it up to the parties to negotiate the content. In addition, the unions have sought mechanisms such as an independent arbitration process to compel agreement and assure compliance when differences cannot be settled by less formal means.

There is nothing in Cuban law that prohibits unions from striking; nor is there any provision of law that implicitly or explicitly supports the right to strike. However, union officials insist that the commonality of interest between management and labour, as well as the extent of union participation in management and policy decisions and the legal obligation to negotiate, eliminates the premises that underlie the exercise of this important right in capitalist systems. Yet, as noted above the unions now recognise the potential for conflict and the need for a mechanism to resolve differences that cannot be settled through negotiation.

grievance procedures

Since 1959, Cuba has experimented with a variety of grievance procedures. The current system combines elements introduced in the 1960s and 1970s such as worker representation on the hearing boards and the right to appeal decisions to the courts. This new system implemented in 1998 provides for worker and union participation on workplace grievance panels. All worker appeals of management decisions, whether they be of a disciplinary nature or denial of a benefit such as promotion or leave, are resolved in the workplace by the Base Organ of Labour Justice (OJLB), a three-member panel composed of a representative of the workers, the unions and management. Either party may appeal to the local municipal court as of right to review the OJLB decision in instances of dismissal or permanent transfer of the worker or in any case concerning rights or benefits. In addition there may be a final appeal to the Supreme Court on grounds of misapplication of law or an arbitrary decision.

It is the policy of the unions to encourage local union leaders to intervene with management to seek modification or

elimination of disciplinary measures considered unfair in order to avoid utilising the grievance procedures. Union representatives might also advise a worker to accept measures if appeal would have little chance of success, but the decision whether to appeal is left entirely to the worker. Although the parties may not be represented by lawyers before the OJLB, workers often obtain the assistance of union officials, lawyers or co-workers in the preparation of their case. In the event of appeal to the court, the parties may engage lawyers to represent them. Hearings are open to other workers to attend.

Statistics show that workers have more than an even chance of prevailing in the OJLB and in the courts. Workers and unions applaud the new system because it is more direct and efficient than previous procedures. In cases of disciplinary measures other than dismissal or permanent transfer, the worker may have his or her employment file expunged of disciplinary charges after a requisite period of time.

social security and benefits

The achievement of universal social security and welfare benefits was one of the first priorities of the Cuban government after 1959. By late 1962, social security coverage extended to all Cuban workers, including 250,000 agricultural workers. Special programs cover artists, musicians and other independent workers. Benefits may take three forms: 1) monetary compensation for lost income due to illness, accident or retirement; 2) hospital, medical and rehabilitation services available free of charge to all Cuban citizens; and 3) medication and food assistance. The government funds social security from the national budget although employers contribute the equivalent of 14 per cent of a worker's base annual salary.

Retirement age in Cuba is fairly low: 60 for men and 55 for woman. Benefits equal to 50 per cent of salary are calculated on the basis of the highest salary earned in five of the 10 years prior to retirement. However, in practice, the average

retirement pension is 70 per cent of salary because additional credit is given for length of employment or working beyond the age of retirement eligibility. Yet, life on a pension today is extremely difficult as no indexing has been done to adjust pensions to the dramatic drop in the purchasing power of the peso since 1990.

Changes in Cuba's demographics pose an enormous challenge to the system: the population is aging rapidly as a result of low birth rates and a life expectancy of 75, one of the longest in Latin America. At a time when the economy is struggling to employ those who are able to work and to increase wages, there are no easy solutions to funding and maintaining the system. A new social security law is currently being drafted, but no consensus has yet emerged on an approach to the problem.

Cuba does not have a workman's compensation system; rather, workers are automatically entitled to both short-term and long-term disability benefits for both work and non-work related illness and accidents. Health care and rehabilitation services are free.

Reflecting both concern for the health of pregnant women and their babies as well as the goal of achieving equality in the workplace, Cuba not only provides comprehensive prenatal and postpartum care but also has one of the most advanced maternity leave laws in the world. Current law guarantees fully paid leave of 18 weeks (six before birth), plus the option of an extended leave at 60 per cent pay until the child is one year old, with the right to return to the same job at the end of the leave.

foreign investment

The CTC and the unions became involved in the early stages of the drafting of the 1995 foreign investment law. Specifically, the CTC sought guarantees that no concessions be made to foreign investors with respect to compliance with Cuban labour laws and insisted that all hiring of Cuban workers be done through a Cuban employment agency that would

protect Cuban workers in the event of lay offs or dismissal. Accommodating these concerns, the law compels full compliance with all Cuban labour legislation, including union representation and collective bargaining.

Currently, only about five per cent of the Cuban workforce is employed by foreign investment enterprises. There are no separate unions for workers in foreign investment enterprises; rather, workers may belong to the same national union that represents state enterprise workers in that economic sector. The union maintains the same activities and structure within the foreign investment enterprise as it does in the state enterprise. With experience, the unions appear to have become more assertive and, in at least one case, obtained the removal of management personnel who violated Cuba's labour norms.

Workers in foreign investment enterprises are hired through a state run employment agency (*Empresa Empleadora*) which screens and selects the applicants it refers to the enterprise. In most cases, the enterprise makes the hiring decision, but the employee enters into a contract with the employment agency. The enterprise pays the salaries of the Cuban workers to the employment agency in hard currency on the basis of a ratio determined by the MTSS during the negotiation process; the employment agency, in turn, pays the workers in Cuban pesos according to established pay scales.

That the employer pays the salaries in hard currency and the worker receives his or her pay in Cuban pesos is not perceived by the unions as unfair since the policy serves to maintain a degree of parity among all Cuban workers who do the same or similar job. The differential value between what the enterprise pays and the worker receives goes to fund universal social services such as health care and education. Despite receiving base salaries in Cuban pesos, many Cuban workers seek work in foreign investment enterprises for the other perks and benefits they offer, such as tips in the tourist industry, hard currency incentives in production and service enterprises, transportation to and from work and improved work conditions.

Although legally contracted by the employment agency, a worker is for most effects an employee of the enterprise that supervises and evaluates his or her work. The same probationary and grievance procedures are implemented in foreign

investment enterprises as exist in the state owned sector. These enterprises must also follow the same promotion practices of state enterprises.

The introduction of foreign partners with their essentially capitalist philosophy and management techniques has presented a different scenario for collective bargaining agreements, requiring the unions to sharpen negotiating skills. As in state enterprises, the primary concerns of the union are the provisions dealing with job qualifications, work regulations, hours, incentives, promotion processes, occupational health and safety rules and other conditions of work. The process of negotiation and acceptance is the same as that which governs collective agreements in state enterprises. Further, workers through the union, have the right to enforce the agreement against both the enterprise and the employment agency.

Rather than an antagonistic relationship, the union response to foreign investment may be described as one of both acceptance and vigilance. Discussions with union officials revealed awareness of the responsibility of both the unions and the government to guarantee the protection of Cuban workers and to assure that foreign investors comply with Cuban labour legislation. At the same time, there is recognition of the importance of the profitability of these enterprises for the national economy. Thus, while workers have an interest in improving both work conditions and benefits, it is in everyone's interest that these enterprises be efficient, well run and profitable.

Since the thrust of economic policy is to recover and develop the Cuban state owned enterprises, Cuba has become increasingly cautious in approving foreign investments. Although new investments continue to be approved, and foreign investment will remain an important long term aspect of Cuban economic policy, the primary goal of the economic strategy is the recovery and growth of the state enterprises, not the expansion of foreign investment.

conclusion

The challenges and transformations of the last decade have created a new dynamic in labour relations in Cuba. The reor-

ganisation and decentralisation of the Cuban socialist system initiated in the 1990s obligates the unions to shed the passivity of the 1980s and assume an increasingly active role in the development and implementation of policy. The process of reforming Cuba's socialist system is ongoing and today the unions are key participants in the drafting of a new Labour Code and Social Security Law. The major task in the work place in the context of continuing decentralisation, increasing management discretion and pressure to make enterprises more profitable and efficient is to elevate the capacity of shop level leaders to better represent workers and to be full participants in enterprise decision-making.

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