



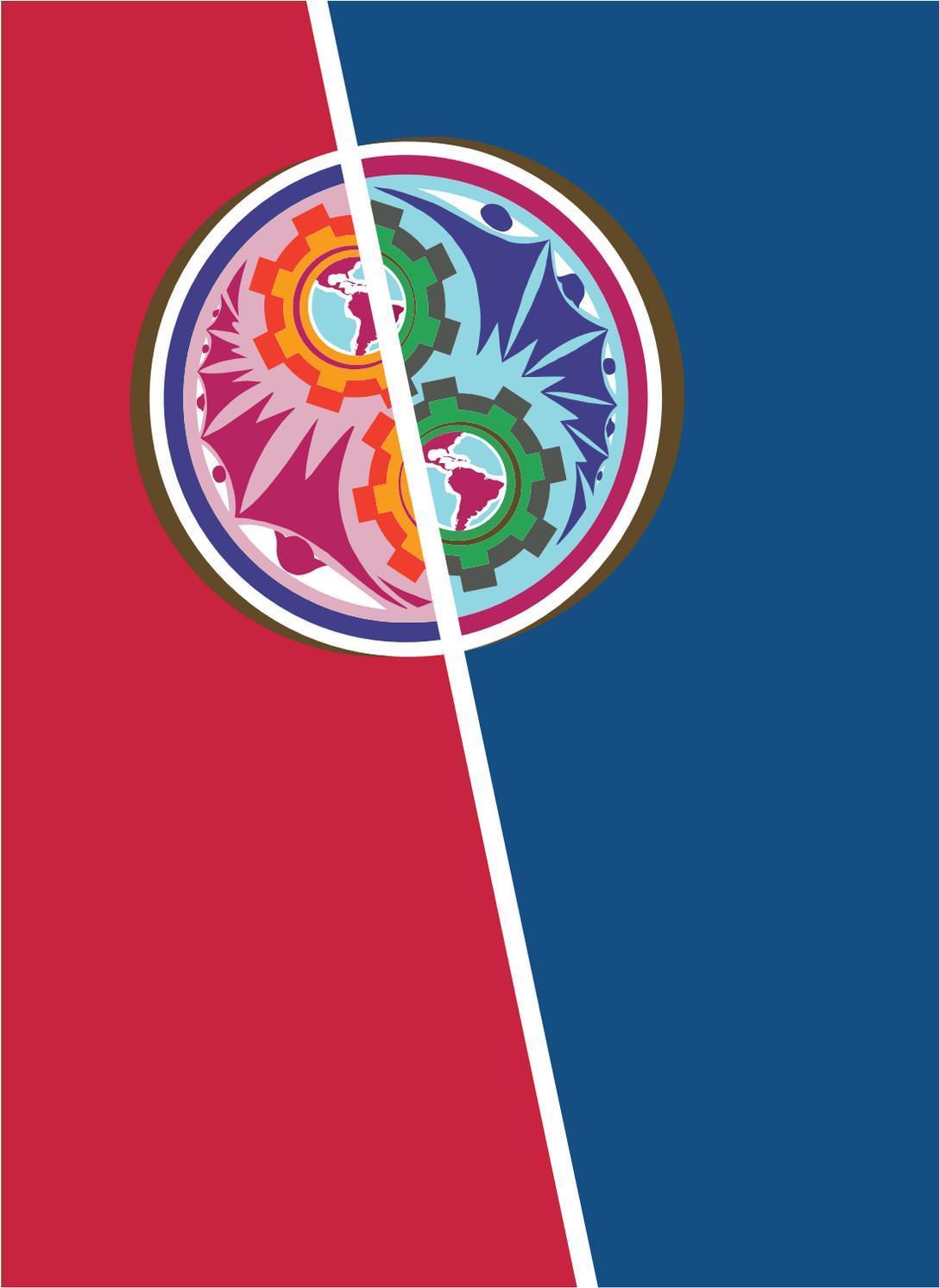
# PROCESSES OF TRADE UNION SELF-REFORM IN THE AMERICAS:

Advances of the Working Group on Trade  
Union Self-Reform (WGSR) between 2010-2013

SELECTED  
DOCUMENTS

Campaign Freedom of Association,  
Collective Bargaining  
and Self-Reform





**T**he **Continental Campaign for Freedom of Association, Collective Bargaining and Self-Reform** is an initiative of the Trade Union Confederation of the Americas (**TUCA**) supported by the Bureau for Workers' Activities (**ACTRAV**) of the International Labor Organization (**ILO**) and by the Norwegian Project "Unions for Social Justice".

Through training activities, political impact and communication, the Campaign -whose transversal axes are Gender and Youth- aims to contribute to the implementation of the Freedom of Association and Collective Bargaining as fundamental Human Rights and as pillars of the Decent Work, as well as to the strengthening of the processes related to the Self-Reform in the Americas.

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Association, Collective  
Bargaining and Self-Reform

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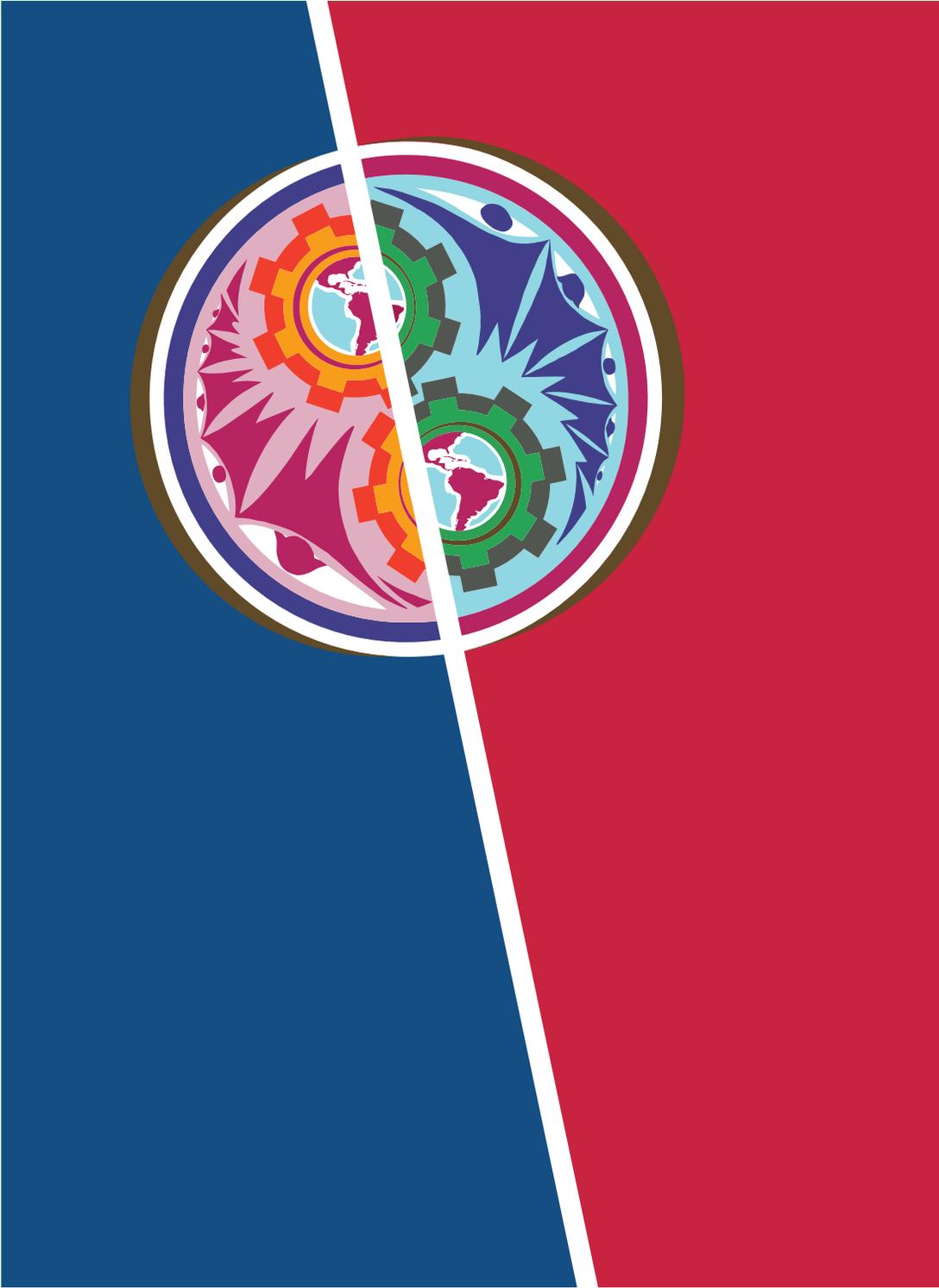
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# PRESENTATION



**Víctor Báez Mosqueira** General Secretary

**T**he Working Group on Trade Union Self-Reform (WGSR) was created in April 2009 with support of the FSAL project (Strengthening Trade Unions to meet the new challenges of integration in Latin America) - executed in the framework of ACTRAV - and more recently with support of the ACTRAV/Norway Project “Trade Unions for Social Justice”.

The WGSR has met regularly, at least once a year, involving almost all affiliated and fraternal organizations, regional organizations of the Global Unions, along with observers of ITUC, European unions (mainly the CCOO and UGT from Spain) and technical structures linked to the labor movement of the region and abroad (FES Germany, FNV Holland).

One of the objectives of the WGSR has been to assemble strategic thinking on trade union actions as benchmark for the development of the program, and the period between 2010 and 2013 has been recorded in four books of the WGSR, encompassing 200 articles.

These documents have been authored mostly by leaders and advisors of affiliated and fraternal organizations of the Confederation, along with members of the Secretariat, the regional leaderships of Global Unions, subregional structures in Latin America and the Caribbean, leaders and advisors of organizations from other regions (mainly Europe), members of the ITUC, ILO officials, and intellectuals of the labor movement.

This fifth book provides a translation into English of a selection of the published articles in order to disseminate and share the experiences of labor organizations of the Americas with other regions where Spanish is not spoken. Within the international labor movement, it is a contribution to the present line of work of the ITUC on union organization.

But let's recall some of the background.

At its Foundational Congress, the TUCA adopted a Program of Action that called for "unrestricted respect for freedom of association/organization and collective bargaining, as essential elements of real democracy and the observance of the basic rights of workers".

This paragraph also involved the opening of a specific line of action called "Trade Union Self-Reform" (with the tagline: "For the Inclusion and Defense of All Workers of the Americas"). Its content stated that "the nature and functioning of neoliberal globalization are substantive and background causes of the current issues thwarting the existence and actions of trade unions... Neoliberalism has undertaken an arduous battle to gain ideological and cultural hegemony in society and, therefore, continues seeking to destroy existing labor organizations, precluding the creation of new ones and discrediting unionism as legitimate option for workers and society".

Given this context, emphasis was placed on informality and precariousness, clarifying that (although) "we fight for their eradication, they continue to exist... (therefore)... the organization and struggle of workers of those sectors continues to be indispensable to reach said objective".

Therefore, the Congress instructed the TUCA and its affiliates to "commit to a thorough restructuring and reform of the labor movement... (for which) its structures need to be revised for consistency with the principles and objectives of this struggle, allowing broader coverage, expression of diversity... all exclusion and discrimination must be eliminated... the issues and interests of the new sectors should be issues of union concern... in particular, the self-reform process should lead to the inclusion of the new sectors into the labor organization... the entire organization should be structured and provide actual facilities for their active incorporation and participation"<sup>1</sup>. Given this situation, the component young workers and

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<sup>1</sup> This perspective was consistent with the general guidelines of the ITUC, whose 2006 plan of action underscored the "Organizing-Unionizing" dimension. The following year the ITUC adopted a resolution defining special programs of action, one of which relates to the informal economy, with equivalent perspective focused on organization. In 2008, the ITUC also launched the World Day for Decent Work (WDDW,

working women were a key element. Additionally, trade union training was considered “the cornerstone of trade union principles, objectives and militancy” and, therefore, core instrument of this organizational process.

A level directly linked to union leadership was also included by mentioning “the inadequacy of certain practices and personal habits of leaders, including bossism and concentration of power, verticality and authoritarianism, bureaucratization, lack of political autonomy, conflicts between sectors, divisions and corruption”.

This view was reaffirmed four years later, at the Second Congress (Foz do Iguaçu, April 2012), through a specific resolution presenting the following propositional scheme:

- It is fundamental to bring about changes in the orientation, management and actions of trade unions and retrieve their role as main instrument of the working class to materialize our aspirations, dreams and projects and become key actors in the construction of an alternative project for society by disabling the individualist and predatory logic of the neoliberal capitalist project.
- Trade unions must be actors in the dispute for the new hegemony, based on participatory democracy and models with economic, social and environmental sustainability, building in conjunction with broad sectors of society - a new democratic public opinion in which the entire population defends the values of equality, solidarity, anti-patriarchalism, respect for sexual orientations and individual freedom.

### **The specific objectives are:**

- 1** Expand the capacity of labor organizations in terms of functioning, structures and representation, mainly adopting policies to enhance internal functioning, incorporate new structures to reduce dispersal and expand the coverage of the union movement through organizing.
- 2** Increase the coverage of collective bargaining to broader spheres (per sector of activity and territories), articulated with bargaining per enterprise, in descending order, including collective bargaining at the local level to cover autonomous workers, incorporating new contents into collective bargaining

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October 7) including, among others, “Solidarity” seen as “assistance to trade unions for their work organizing workers in informal, unprotected and formal situations”.

(such as outsourced workers and domestic work), including gender-specific content increasing women's participation in the bargaining process.

- 3 Advance in trade union unity/coordination and the construction of alliances with more national and subregional articulation between national centers and confederations.
- 4 Prioritize the following labor collectives that require urgent representation: Salaried precarious workers in outsourced, subcontracted or temporary contracts, non-registered salaried precarious workers of formal and informal enterprises, non-salaried small-scale production workers, including those in rural activities. The assessment and action applied to other collectives will also be explored: workers of export processing zones, retired workers (to retain them in union structures), workers of the solidarity social economy (use of such structures).
- 5 Develop an Observatory (Exchange and Follow-up System) of Trade Union Self-Reform processes for greater dissemination and exchange of experiences and the utilization of results-based indicators.
6. Promote greater exchange with affiliates in North America.

As a final thought, we reaffirm the following:

- Self-reform is not a definitive concept; quite the contrary, it is continually revised and validated, and takes into account each reality and the autonomous decisions of each trade union.
- Self-reform seeks greater strength in the organization, representation and representativeness, legitimacy and influence at all levels involving labor rights and working conditions, employment and life, particularly at the level of the collective contracting of workers of any condition or labor modality.
- There is a self-reform process generated by labor organizations themselves, whereby the objective of the program is to raise awareness on experiences that have already been undertaken systematizing achievements and “feeding them back” to the organizations themselves, to develop synthesizing formats that can become models of action.
- Other than the basic objective of unionism reforming itself, our self-reform,

is linked to an “external” element, i.e. changes in the field of labor legislation in order to facilitate it. For this purpose, the Human Rights Network and Continental Legal Team of the TUCA have developed a line of work that identifies legal restrictions to labor organization and collective bargaining.

- Self-reform is an appeal to “unionize unionism”, meaning recalling that it we are one of our core functions. Another similar expression used by unionism of the region is “organizing the organization”.
- If we are able to develop, grow, improve, we will be able to influence sectors in power with the other side of union strategy, i.e. the sociopolitical side which urges governments, employers and civil society organizations to act on the crucial need of changing the economic, social and political model of our societies.

Indeed, this strategic approach is the focus of the current Regional Campaign on Freedom of Association, Collective Bargaining and Trade Union Self-Reform, launched by the TUCA on August 8 in San José, Costa Rica, and endorsed by the IX Executive Council Meeting of the TUCA (São Paulo, November 7-8 2013) through a Resolution stating “the Campaign will assess the indicators of impact linked to the establishment of union programs of action to increase union membership and expand the number of affiliated workers protected by collective bargaining agreements; identify potential changes in labor legislation; draw up of trade union training plans based on the Campaign’s toolkit; collect and systematize experiences in trade union self-reform, collective bargaining, mainstreaming of gender clauses into collective bargaining agreements; and create a database on collective bargaining clauses”.

We look forward to this book by the WGSR helping us strengthen and consolidate the trade union self-reform process in the Americas, as well as sharing similar trade union experiences in other regions.

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# PROLOGUE

## TRADE UNION SELF-REFORM PROCESSES IN LATIN AMERICA AND CARIBBEAN

**Maria Helena André** ACTRAV Director

Over the past four years it has been a great satisfaction for ACTRAV to accompany the important achievements of the Working Group on Trade Union Self-Reform (WGSR), led by the TUCA through ACTRAV/Norway Project “Trade Unions for Social Justice” and the ACTRAV/FSAL Project.

The work of the WGSR included a series of strategic priorities aimed at strengthening labour organizations through the promotion of plans to organize new labour collectives; expansion of collective bargaining, primarily at the sector level, as well as expansion of its contents; unified trade union action; and the development of alliances.

Indeed, the most recent contribution to this process has been the launch of the Regional Campaign on Freedom of Association, Collective Bargaining and Trade Union Self-Reform (San José, August 8, 2013), with a strategy focused on promoting actual compliance with the Fundamental Principles and Rights of Freedom of Association and Collective Bargaining enshrined in ILO Conventions 87 and 98; and on strengthening self-reform process, considered a crosscutting theme, given that such processes have always underscored organizing and collective bargaining.

We are confident that this fifth release of the WGSR in English will further strengthen the trade union self-reform processes of labour organizations by enabling labour organizations of most of countries of the Americas to exchange experiences with each other, as well as with other countries outside of the Americas. The Strengthening of the new forms of interregional work is a priority as reflected in the trade union agendas on trade union self-reform process, in the last years.

### **BRIEFLY, AMONG OTHERS, THE MOST IMPORTANT ACHIEVEMENTS OF THE WGSR ARE:**

**Creation of a Regional Trade Union Working Group.** The on-going work of the WGSR to promote the exchange of experiences on advances, difficulties and strategic ini-

tiatives relating to trade union self-reform in the Americas has been noteworthy. Six regional workshops were held between April 2009 and October 2013, with the participation of virtually all TUCA affiliates, as well as several fraternal organizations that had not participated in joint activities previously. The systematic presence of most Global Unions should also be noted.

**Resolutions of the Second Congress of TUCA.** After the inclusion of the self-reform process at the First Congress of TUCA in 2008, four years after a qualitative leap was taken by the Second Congress of TUCA held in 2012, which approved a specific resolution formally binding the organization to continue its work on this line until 2016.

**Gender and Trade Union Self-Reform.** In the last two years, the process has been enriched with the gender approach under the leadership of the Secretariat of Education & Trade Union Policies, i.e. the TUCA Secretariat responsible for this topic, as well as the Working Women's Committee of the Americas (WWCA). To date, two Regional Workshops have been held on Participatory Gender Audits (PGAs) and Trade Union Self-Reform Processes, with the support of GENDER/ILO and ACTRAV, which have resulted in the implementation of Participatory Gender Audits in five labour organizations: Convergencia Sindical/Panama, CTA/Argentina, ASI/Venezuela, CUTH/Honduras, and CUT/Colombia. As a result of the priorities established by TUCA and the WWCA over these years, the Trade Union Guide on PGAs and the Trade Union Self-Reform Processes of the TUCA was developed and consolidated in order to complement the ILO Manual for Gender Audit Facilitators. This process has helped strengthen the capacity of labour organizations to see PGAs as a useful tool to assess trade union policies and practices on gender equality and their contribution to the pursuit of alternative solutions to achieve greater effectiveness and efficiency in the mainstreaming of the gender approach into trade unionism, as reflected in the Resolution on Gender Equity and Equality adopted at the Second Congress of the TUCA.

**National Trade Union Self-Reform Processes.** As part of the agreements reached in the WGSR, TUCA has moved towards work in specific national contexts and the result has been striking: 22 self-reform programs/processes undertaken in 7 countries: 17 in certain national centers and confederations, 3 with national unitary character, and 2 corresponding to the regional organizations of Global Unions Americas.

**Union Training as Strategic Tool for Self-Reform.** With the support of ACTRAV, TUCA has made important efforts in relation to training in order to generate expertise,

fundamentals, conviction and initiatives on the need, relevance and scope of self-reform. Buy-in was achieved on what it is for, why it is needed, for what purpose and the how to achieve the self-reform proposal, and concrete commitments were made. 400 leaders of 12 organizations from 7 countries have received training through 32 workshops.

**Research for Trade Union Action.** Throughout 2012-2013, TUCA developed important regional publications that have been released as part of the current Regional Campaign on Freedom of Association, Collective Bargaining and Trade Union Self-Reform: “For more and better collective bargaining”, “Outsourcing through Temporary Employment Agencies in Latin America”, the “Trade Union Guide to Promote the Implementation of the Recommendations of the Committee on Freedom of Association”, and the “Guide on Trade Union Self-Reform Processes” (in Spanish and Creole). The chapter providing a compilation of statistics on trade union structures, unionization and collective bargaining was also developed in the 2012-2013 period, as part of the Observatory (the Exchange and Follow-up System on Union Self-Reform) that TUCA will soon be posting on its website with the support of the ACTRAV/Norway Project “Trade Unions for Social Justice”. It is important to underscore the regional publication called “Trade Union & Contractual Density” by the TUCA, providing data on 20 Latin American countries. ACTRAV considers that this initiative is an important contribution to the consolidation of socio-labour sources of statistical information stemming from labour organizations themselves.

**Compilation of Trade Union Experiences.** The extensive range of experiences and proposals contained in the four books published by the WGSR have raised awareness on a host of union experiences developed over many years as a response of organizations in the Americas to the challenges caused by labour changes stemming from economic changes. In actual fact, the analyses included in these WGSR publications are proof of abundant trade union practice in this region, with organizations that have decided to innovate in gamut of ways to sustain and increase their current membership and presence in society.

**ACTRAV** welcomes the initiative of **TUCA** to promote greater exchange on trade union self-reform processes at regional and interregional level.



# PROCESSES OF UNION SELF-REFORM IN THE AMERICAS



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## ARGENTINA

■ **CTA** Central de Trabajadores de Argentina

### **DIRECT AFFILIATION: A GATEWAY FOR THE ENTIRE WORKING CLASS**

**Daniel Jorajuria** Trade Secretary

**T**hese contributions are the basis of the presentations made on behalf of the TUCA during FSAL project activities on trade union self-reform (Lima, October 2010 and Turin, October 2011).

The self-reform process is a strategic dimension adopted by the TUCA Foundational Congress in 2008. The action plan formulated at such Congress recommends urgent restructuring and reform of the labor movement, the worldwide need of which is clearly understood. It is a process that still requires more tenacious dissemination. No leader ignores that traditional union structures do not encompass the entire reality of the working class and that traditional trade unions do not fit the bill. Those of us responsible for its dissemination and substantiation in our countries, to workers in general and to our centrals in particular, have been amiss and not achieved it yet. Unions and the working class will succeed if we are able to address all the organizational changes of capital. I think the time is right given the important historical moment we are experiencing, i.e. the full-blown global crisis.

## I INTRODUCTION

The UN Bachelet report says that 5.1 billion people in the world (75%) have no social security. Maybe this will help us to hone our intelligence and shake union structures as we still have not found the development, stability and wellbeing that we expected for workers in the early years of this century, more so bearing in mind that the world economy grew steadily for 10 years (1997-2007). Even the most powerful economies do not find the peace and stability that those generating wealth in the world deserve. Today millions of unemployed workers in Spain and Greece seek solidarity and migrants return to their countries of origin. Average unemployed workers already reach 10% in the European Union. 1.4 billion inhabitants of the world earn less than US\$ 1 per day. The same is true for Latin America. In Argentina 5 million jobs have been created in the past nine years, but the proportion of unregistered work remains close to 40% (including the rural sector), and collective bargaining has been, for the most part, equally or more flexibilizing than in the boom years of neoliberalism, deteriorating the quality of employment.

Despite economic progress, workers in general are still neglected. In our country some officials have said that the crisis originates in developed countries and that Argentina is armored. Not true. According to the Julio Gambina, a CTA economist, "in a globalized world, the economy is global and the crisis is global, and is related to accumulation on a world scale. It is an integral crisis: of democracy, finances, production, energy, food and natural resources. What is the food crisis but the crisis of production concentrated in rural areas, depopulating the countryside, dismantling farm work, eliminating the family economy, excluding indigenous peoples. Data on the crisis are provided, but there is no information on the causes and it is the capitalist model, whose purpose is always the same: to earn to accumulate and accumulate to dominate, and this is achieved with the overexploitation of labor, overexploitation of resources and economic liberalization."

Therefore, instead of finding quality work and quality of society, we find inequalities and social imbalances, imbalance between capital and labor, between productivity and wages, between multinationals and SMEs, the financial economy and the real economy. But the economy is global, the crisis is global. And the crisis of any worker is the crisis of all workers in the world. The idea is to unify workers, this should be the focus of the trade union movement. Formal and informal workers and workers in precarious conditions, we are all workers, let us all unite in the struggle, achieve unity in our actions for our rights.

## **II THE ECONOMY IS ONE. The working class also.**

If we agree on this, we can move forward to understand that there is only one economy and one category of workers, and all with the same rights. If the world economy grew so much in the 1997-2007 period, why have labor informality and labor precariousness remained the same or got worse?

If this is true, obviously this is not an economic or legal issue, but a political one, a political decision. It is about policies that impose an economic development model of capital accumulation at the expense of greater exploitation, precariousness and exclusion of workers.

At this stage of the analysis, we workers do not agree with the distinction between formal economy and informal economy at the time of demanding our rights and social protection. Politically, we cannot accept this division described by the model. The economy is one, and in any case the political economic model creates the informal economy for the benefit of the formal economy. For example: in the textile industry, which starts in a sweatshop with slave labor at home, their product ends up in a luxury store in the main streets of Buenos Aires or São Paulo, or in stores of the Sahara. Another example: Avon sells its products through door-to-door informal and clandestine saleswomen, evading taxes, without paying wages and no labor cost. And we could go on listing other companies.

Furthermore, from the point of view of our rights, we should not divide workers into formal and informal, since informal is the situation in which they are working, which depends on the economy and not on the person (definition of the regional meeting on the Informal Economy held in Cartagena in May 2009, in the framework of Ibero-American cooperation).

A survey by the Ministry of Labor of Argentina, with support from the World Bank (2007), recorded that 91% of workers in the informal economy indicate they have no other option, 95% of workers in precarious conditions believe that otherwise their employers would not accept them, and 94% admitted they did not want informal work.

The distinction between formal and informal workers might be correct in sociology, but not in the economy. To answer questions such as “who we are”, “what are our rights” and, above all, if we talk about fundamental collective and social protection rights, we are all workers and we have the same rights. Before the industrial revolution, were we not all workers (albeit informal in current terminology)?

We started there, we got organized as the first step of our self-stewardship and became formal. We made no distinction between workers and unionizable subjects. Why now do we allow these distinctions to divide and weaken us? ILO Convention 87 says: “Workers... without distinction whatsoever, shall have the right to establish organizations of their own choosing...”, this fundamental right extends to all workers, not just to those who are employed. Therefore: there is only one kind of workers and the economy is also one. In Argentina, the Constitution goes in the same direction: “The different forms of work shall enjoy the protection of the laws” (Art. 14 bis).

Informality is a political creation of capitalism to discipline us, exclude us from our rights, deconstruct our unity and weaken our organizations. Dismantling this political creation should also be a political decision of ours, to build together, that’s the challenge.

### **III LATIN AMERICA: An admirable continent for its wealth but the most unequal one on the planet**

Latin America is still an admirable continent for its riches, but it is the most unequal in the world. More than 500 years of history explain the reasons for this inequality. Today the labor movement has the responsibility of building enough political and union power to eliminate these inequalities.

The FSAL project on legal restrictions to freedom of association and collective bargaining evidenced the fundamental reason why we are lagging behind, what it is that does not allow us to fight upfront for the just distribution of this continent’s wealth. Between 50% and 70% of workers in Latin America cannot form or join a union. They do not have that fundamental right to organize, which is a tool to obtain rights. Von Hayek still rules here, as does freedom of organization for capital, but not for workers. These restrictions to collective rights are one of the reasons for domination over workers in Latin America.

For example, legislations such as those in Argentina, declared unconstitutional by the Supreme Court of Justice and repeatedly criticized by ILO, only allow the unionization of “formal” workers, which account for 47% of the EAP. This is further aggravated by the political constraints imposed by the Ministry of Labor that does not allow simple union registrations nor does it grant legal status to unions of the CTA, nor to the CTA itself. Hundreds of files are shelved at the Ministry of Labor, and most of them for more than five years.

This might explain why more than 10 million workers, out of a total of 17 million of the EAP, are not unionized. Or that over 85% of companies do not have union representation in the workplace. And what about the majority of Latin American countries, except for Brazil and Uruguay, where only company-specific unions are allowed and the conditions imposed for the size of trade unions exclude more than 80% of workers?

As the FSAL study points out, the law in Latin America establishes who can join and who cannot; who can be a leader and who cannot; how the internal structure has to be; how and where to register the union; what its legal status will be; what the union can do and what not. Nobody even considers telling capital how it has to be organized... but they can tell workers.

ILO conventions created to level unequal relations between capital and labor are not respected by many Latin American countries, including those considered progressive, helping to generate even more inequality. Employers and governments should know that they cannot violate the fundamental rights of organization, representation and bargaining to gain competitive advantages in the market.

#### **IV DIRECT AFFILIATION**

**F**aced with so many restrictions on freedom of association, with so much fragmentation and exclusion, we open the doors of all centrals to the entire working class: direct affiliation. I am proud to belong to a central that from the onset established a precedent that becomes more valuable as time goes by. This principle is that anybody who feels a worker is entitled to join directly, regardless of the life contingencies they may be going through, in other words, whether active or passive, formal or informal, native or migrant, dependent or independent, employed or unemployed.

The CTA preempted the disintegrative consequences that neoliberalism would cause on the working class. By the end of the 90s we had enrolled 50% of workers with employment issues (unemployed and underemployed). In Art. 4 the CTA establishes that “CTA membership is voluntary and open to workers... (which) will be directly by the worker at the local, provincial or national organization of the CTA or through the union.” And so the CTA was set up as workers central, not as coordinator of unions.

Additionally, Article 2 of its Bylaws expands the concept of labor establishing

that: “In principle the following may join: a. employed workers; b. unemployed workers; c. workers beneficiaries of social security; d. autonomous and self-employed workers who do not employ workers; e. workers in domestic service. In this way the CTA broke away from traditional unionism which organized the working class when there was full employment, and so spread horizontally: today there are more than 250 CTA locations reaching out to workers.

Two lines of action were implemented through direct affiliation. The first was a response to the scenario left by neoliberalism of 22% unemployment. Our first Secretary General and founder Víctor de Gennaro coined the phrase “the new factory is the neighborhood”, the neighborhood as the place where workers live and where it is necessary to reach them. There we went to organize them and organizations emerged. The FTV-H (*Federación Tierra Vivienda y Habitat*), the TUPAC Group, the MOI (*Movimiento de Ocupantes Inquilinos*), the MTL (*Movimiento Territorial Liberación*) are some of the organizations that became national. All these organizations were made up by unemployed workers, mostly with plenty of union experience.

The other line of action was to create a space of containment and organization of workers excluded from the model, but who had not given up and generated working initiatives (garbage recyclers, street vendors, artisans, motorbike messengers, retirees, cooperative workers, autonomous workers and self-managed workers from companies recovered by the workers). I was charged with the coordination of this space and it was very exciting to see how, even though the system did not allow it, workers would come anyway to unionize and organize. They were unwilling to leave things to political parties or to the government, they felt part of the working class and came to the central to fight and regain their rights.

Through direct affiliation we also unionized workers of the private sector who belonged to unions that modified their statutes, restricting internal democracy to the maximum extent possible, leaving workers without the possibility of participating and without channels of expression. Initially these workers joined the CTA directly and with its growth over time they formed unions.

Direct affiliation was the tool for entry and containment, followed by organization. In this way we rebuilt the torn social fabric and began to accumulate our own power to demand change. The CTA became a channel for unspecific topics that do not pertain to a particular activity or to a specific union, but that are general issues that any worker might suffer, such as informality, self-management, migration, new jobs, etc.

Direct affiliation to the CTA also contained and resolved one of the worst displays of lack of solidarity by the unions by sector of activity or company-specific unions, when they abandoned (ended the membership of their workers) when they most needed it, i.e. when they lost their job. A union cannot be something temporary, and link membership to having employment or not.

Today workers rotate jobs, activity, change from a formal situation to an informal one and vice versa, go and come and do not know to which union they belong. With direct affiliation to a central, all this fragmentation of the working class is contained and organized. That is what direct affiliation has done for us and today we have 452,000 workers directly affiliated to the CTA. A stronger bond was achieved with them, as well as a greater sense of belonging and identity with the CTA.

## **V CONCLUSION**

I think that union centrals in Latin American countries, where only company-specific unions are allowed with conditions established for their size, which excludes 70% of workers from unionization, should amend their bylaws and incorporate direct affiliation as a tool to organize and unionize excluded workers who, for different reasons, cannot form a union.

Given the speed of the constant changes in the organization of employers and capital, which fragments the unity of the working class and weakens their organization, the full exercise of freedom of association is required as right to organize freely to confront the organization of capital.

This year the ILO conference will address fundamental rights and Latin America must make its voice heard in order to break the restrictions revealed by the FSAL project.

If countries do not change their legislations on collective rights that remained stuck on the idea of the centrality of subordinate (dependent) full-time work for indefinite time, as if that were the reality, such legislation will legislate for no-one.

Hence, given the reality of the working class, trade union structures must contain its fragmentation. And direct affiliation is the gateway for workers to join a central.

And if we strengthen this idea we arrive at the proposal of Secretary General Eric Skov Chistensen of LO Denmark, published in the first book of the WGSR (2010), i.e. that the best strategy for the trade union movement is to focus our energies on a one single union.

**This is the contribution of the CTA.**

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# BRAZIL

## ■ SINTETEL FORÇA SINDICAL

### UNION DEVELOPMENT OF THE TELECENTERS OF BRAZIL

Cenice Monteiro published by WGSR, 2012

#### INTRODUCTION

**T**he globalized world mounted a dynamic that faced the union movement with a simple but crucial dilemma: rethink strategies to reorganize the rank and file or agonize to death.

Labor relations in Brazil, especially in our segment, suffered a brutal and unimaginable transformation long before the privatization of the telecom companies.

Unfortunately, many related unions continued fighting the inevitable: an inhuman and unequal struggle of machetes against torpedoes.

SINTETEL, following its avant-garde tradition, chose to carefully study the difficult scenario it was facing in order to understand the restructuring process that these companies had undertaken and how that process affected labor relations so as to, based on that information, tackle it more efficiently.

The diagnosis was clear: reassess the strategies of the struggle which, although they had been critical in the past, are now outdated, to then start to reorganize the labor union based on its rank and file.

The globalization of the economy has meant that the labor movement has had to deal with the new labor relations which are overwhelming and perversely employed by the so-called the neoliberal model. For that reason, there was a rift between the leaders and the rank and file and a gap grew between union leadership and their constituents. In short, unionism strengthened its dialogue with the government and the business sector, but weakened its power to mobilize.

There is a maxim that states that it is impossible to win a battle only with generals and strategists: the army is fundamental. Obviously, this is nothing new since mobilization is a fundamental pillar of unionism. However, if the method is still

the same, it is necessary to rethink how to drive the awareness of workers in order to promote their reorganization in the workplace.

Therefore, the board of SINTETEL began by revisiting their own concepts, breaking or reformulating ineffective practices for labor relations which we had to build with the companies in this adverse scenario.

## I THE TELECENTERS

Faced with the huge growth of the rank and file represented, the first target was to address this new reality by strengthening our “army” of grassroots activists. Not only quantitatively, but mainly qualitatively. We needed union representatives who spoke the same language of workers in the different telecommunication sectors.

We understood that the greatest difficulty would be the Telecenters as companies with mostly young workers in their first job. These companies already have a policy of resistance to union organization.

Consequently, our first step was to find activists among the rank and file with leadership potential and a profile that coincided totally with present times and the current needs of these young workers.

## II DIAGNOSIS

Today most of the employers of the sector are these Telecenters. But they cannot be compared with other segments of the labor market. Telecenters have specific characteristics which entail new challenges for labor unions.

SINTETEL of São Paulo made a correct analysis of the operation of Telecenter companies and found fundamental data for our project. For this purpose we make the following questions:

- How to enter this little-known universe, in which we find hostile treatment on the part of the companies?
- What language to use to establish dialogue with the workers?
- How to break the resistance of companies and open negotiations to advance collective agreements?
- And lastly, what methods to use for succeed in organizing our brothers and sisters in their workplace?

Based on a survey, our first step was to take an “X-ray” and define the profile of these workers. Here is the diagnosis:

- 80% are young, most in their first job
- 70% are women
- 5% are people with disability (maximum)
- 2% are retirees who returned to the labor market

The greatest problem faced by these workers are the low wages and poor working conditions to which these workers are subjected. For example:

- They are put under pressure to achieve utopian goals,
- Bullying like “whoever misses the target will be fired for just cause” (in some small-scale companies, workers who do not reach the targets are subjected to humiliating situations in front of their co-workers),
- Sexual harassment: sometimes of homosexual nature,
- Lack of respect for women during their menstrual period,
- Punishment for those who make mistakes, even if their mistakes are insignificant.

In addition, the globalized service allows more developed countries to seek cheaper labor in poor countries who speak the same language, stimulating inhuman competition leading to increasingly precarious wages.

Hence, we decided to face the challenge of addressing alongside these young workers the adversity to which they are subject.

### III UNION ACTION

**S**INTETEL of São Paulo created a Department of Union Organization in the Workplace (OSLT), which favors this segment of the category by holding specific day-long seminars to raise their awareness and prepare them to face and overcome adversity. In a simple and pedagogical manner these seminars teach these young workers about the history of the labor movement, mainly in Brazil; provide guidance on the rights and obligations established in labor legislation and description of the successes of the labor movement or those that can still be achieved through collective labor agreements; and of the invincible power arising from the union of organized labor and hence, of the importance of unionization.

These meetings are always enlivened with recreation, mingling and rest so that young people who are not accustomed to hearing about labor issues feel enter-

tained and make the meetings much more enjoyable and productive.

The natural consequence of these seminars is that the young return to their companies with a renewed vision of labor relations. They return mobilized, ready to spread their new-found knowledge and eager to develop union actions in their workplaces. Another advantage is that new leaders begin to emerge among them who one day will replace us in the endless struggle between capital and labor.

These young people are invited to dynamically participate in union activities and they are given specific training on the role of Union Representatives, how to approach workers, the importance of union meetings, proper oratory, collective bargaining, and oversight of compliance with rules and regulations, labor rights, and collective bargaining agreements.

#### **IV RESULTS OBTAINED**

**A**fter intensive efforts carried out alongside workers of the Telecenters, especially with the contribution made by these new leaders formed by the OSLT, we can say that we are already reaping significant results:

- We already have signed collective agreements with virtually all companies whose workers we represent.
- Year after year the essential terms have been improved (healthcare, food, working conditions, etc.).
- Workers look forward to opportunity for promotion (64%), which before the union's intervention was unthinkable.
- Before no worker was kept in the company for more than six months, today workers remain for one to two years on average.
- Above all, union membership is growing significantly.

We are aware that we are far from reaching our ideal, consequently we uphold the policy of continually recycling the strategy of our struggle.

This year, together with our constant organization of the rank and file, we are developing a plan to approach the business elite. This entails breaking the resistance of the companies that still refuse to talk honestly and openly with the labor union.

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# CANADA

## ■ CLC, CANADIAN LABOUR CONGRESS

### UNION RENEWAL

**Hassan Yussuff** Secretary Treasurer, Published by WGSR, 2012 and 2014

**U**nion renewal is the fundamental challenge facing the labour movement today. More than simply redoubling our efforts, unions must transform their cultures and internal practices if they hope to be relevant to a new generation of workers. Despite a great deal of reform, our unions often function in a way that is still alien and opaque to many young workers. Our cultures tend to be time-honoured, formal, and hierarchical; youth culture is spontaneous, democratic, and constantly in flux. Union processes are typically ponderous and gradual; youth activity is fluid and instantaneous.

The complexion of our movement and organizations is also very different from that of a new generation of workers. Much of the union membership and labour leadership today belongs to the baby boom cohort born between 1945 and 1970, now approaching retirement. And while many of our organizations have made great strides in becoming more inclusive, the leadership of our movement is still too often unrepresentative of the diverse makeup of the youth workforce.

Unions must themselves find the vocabulary to communicate the importance of unions to a new generation of workers. Many youth do come to unionism through workplace grievances and confrontations with employers. But most young workers today – including the sons and daughters of union members – lack an understanding of the vital importance of collective action for improving conditions and creating the rights and freedoms we enjoy at work.

Only unions can convey this importance to young workers. Relying on the corporate media to transfer and pass on our traditions and values is a recipe for failure. The media is dominated by the corporate media, which supports and reinforces the portrayal of unions as self-interested, corrupt, and conflict-driven. If unions are unable to themselves demonstrate their relevance and openness to young workers, the conventional depiction of unions found in the corporate media will reign uncontested.

Precisely because of the stereotypes and negative perceptions of unions promoted by the corporate media, talking openly and honestly to rank and file members can be risky and uncomfortable. When it comes to young workers, the lines of communication can be even more strained. Youth interact with a level of informality that the union movement often finds alien and uncomfortable. Communicating in the tone, rhythms, and methods familiar to youth is foreign and difficult. We have to accept that connecting with youth means reaching them in the language and form they are comfortable with.

Unions can only renew themselves if they place themselves at the centre of members' lives, but most importantly, at the forefront of the struggles, challenges, and aspirations of youth. Unions must make it common sense that when a young worker is asked to undertake unsafe work, is frustrated with being passed over for opportunities in the workplace, is being harassed because of their identity, the union is the place they naturally turn for help. It requires no less than making collective action through unionism a central aspect of youth culture.

Unions must begin by acknowledging that youth have special needs in the labour force. Today there are 75 million unemployed youth around the world, and young workers are three times more likely to be unemployed than adults. In Canada and many other countries, the unemployment rate among youth is twice that of the general labour force. In employment, young people are more likely to face insecure employment, low pay, and generally precarious work. The informal sector and regulated sectors and industries that young people are characteristically working in – retail services, accommodation and food services, social assistance and personal care – commonly lack union protection. Young workers have specific needs and concerns when it comes to access to training and education, and health and safety protections on the job.

The question is not whether renewing the purpose and centrality of unions with a new generation of workers is possible or feasible. The real question is how to place renewal at the forefront of every union's agenda. There is inertia within the union movement, but also real opposition to renewal, which we must be honest in recognizing. Corruption and entrenched opposition to transparency, openness and rejuvenation are real challenges for our movement, challenges that will have to be confronted and overcome if unions are to remain relevant in the 21st century. ►

## **LEGAL RESTRICTIONS TO UNION ORGANIZING AND COLLECTIVE BARGAINING IN CANADA**

Intrusions into worker rights by governments across Canada, which appeared as a trend in 2011 has grown into an entrenched pattern in 2013. At the federal level, Conservative Prime Minister Stephen Harper has used his long-sought majority in the Canadian Parliament to repeatedly attack freedom of association and collective bargaining rights in his own jurisdiction, and other levels of government predictably followed suit with equal commitments. Violations to trade union rights across the country continue to exacerbate the already low level of statutory protection for rights to organize, bargain collectively or strike in federal, provincial and territorial jurisdictions across the country.

The Conservative government in Ottawa continues to show the way with a program of cutbacks to public services and programs, backed by an unrelenting policy of fiscal austerity and affronts to trade union rights. These actions, together with numerous changes affecting rights of women, aboriginal peoples and immigrants, were implemented by omnibus Budget Implementation Acts during three successive years, until the most recent at the end of 2013. Each was over 300 tightly-packed pages that were thrust through Parliament with almost no opportunity for democratic oversight or debate.

### **TRADE UNION RIGHTS IN LAW**

While trade union rights continue to be officially guaranteed in legislation, federal, provincial and territorial laws continue to harbor a growing list of exceptions for many sectors. The Canada Post Corporation Act, which continues to restrain certain temporary and contracted-out workers from joining a union, is only one of many such cases.

Restrictions through union certification rules (“automatic card-check,” “mandatory voting systems” or some combination of both) continue to dominate labour relations in most jurisdictions, in addition to a plethora of administrative and political hurdles for establishing or certifying unions and validating collective agreements.

While collective bargaining continues to be formally protected, provincial or territorial restrictions remain, with the right to strike continually jeopardized in these, as well as at the federal level. Provinces routinely prohibit specific sectors

from striking; e.g., teachers in some provincial jurisdictions or government and health sector workers in Alberta. In addition, the exercise of this right is routinely limited in the public services by the obligation to provide essential services. At the same time, the use of replacement labour is still allowed in industries governed by the Canada Labour Code and in all provinces, except Quebec and British Columbia.

## **TRADE UNION RIGHTS IN PRACTICE**

In recent years, neither federal nor most provincial/territorial governments have provided any indication that they are willing to respect trade union rights, despite Supreme Court rulings that have reaffirmed collective bargaining and freedom of association as fundamental rights enjoyed by Canadians. Instead, they have routinely challenged these rights through “case-by-case” battles, asking labour boards, arbitration tribunals and courts to counter or restrict the applications of these rulings, a strategy that compels unions to spend a disproportionate amount of finances on judicial or quasi-judicial representation.

Meanwhile, the Federal government has also taken steps of its own to further impose additional financial and reporting burdens on unions — concurrent to leading the charge to restrict the right to strike in its own jurisdiction (see below). Bill C-377, a Private Member’s Bill with government support, would impose onerous annual reporting requirements for unions to the Canada Revenue Agency — a move that will cost unions and taxpayers tens of millions of dollars if it sees the light of day. This Bill will require unions to report all expenditures over \$5,000, particularly expenditures on political activities and campaigns. It will also give employers access to detailed information about unions’ collective bargaining and organizing activities. In addition to violating privacy protections guaranteed under federal or provincial privacy laws, the Bill carries a clear potential for undermining union organizing drives and other association activities.

## **THE FEDERAL GOVERNMENT IS LEADING THE CHARGE IN ANTI-UNION PRACTICES**

Less than 10% of the Canadian workforce is covered by federal law, yet it is at this level that the government has led the way with restrictive legislation, or the threat to introduce it, with the effect of tipping the balance of bargaining power in favour of the employer in specific strikes. In the most recent 2013 Budget Implementation Act it has moved ahead with plans to strip certain public servants of the

right to strike and to make it illegal for any bargaining unit declared to provide and essential service to strike, forcing workers in to arbitration in cases of contract disputes. The legislation blatantly says” the employer has the exclusive right to determine that a service is essential and the number of position required to provide that service”.

Now, the Federal government is turning back the clock by introducing measures that will actually encourage labour disputes, within Canadian labour relations. Bill C-60 was adopted in 2013 and has amended the country’s Labour Code by bringing in the Treasury Board as a third party to the collective bargaining of crown corporations, with a power to veto tentative agreements and impose conditions of employment during the collective bargaining process. This will diminish the role of the crown corporation as an employer and vastly reduce the ability of workers to negotiate.

At the time of writing Bill C-525 is making its way through the House of Commons. It will amend the certification and decertification processes of a bargaining agent in the federally regulated jurisdiction, making it harder to win representation and easier to decertify bargaining agents.

These changes exacerbate an already well-established method of tampering with freedom of association in Canada though Labour Code restrictions on union certification rules, like ‘mandatory voting’ and ‘automatic card-check’ systems.

To make matters worse, employer groups and conservative-minded politicians now vow to introduce other changes within federal, provincial and territorial jurisdictions – fundamentally altering the balance in labour relations, everywhere. They propose to eliminate the dues check-off system in Canada, known as the Rand Formula - a fundamental component of our labour relations system. The Rand Formula was originally introduced by legislation that took its origin in a court ruling, based on an arbitration decision that ended a 1945 strike by the workers at Ford in Windsor, Ontario. The elimination of dues check-off will invariably cause serious financial difficulties for trade unions to organize and represent workers.

The Federal government approach is also having a spill-over effect on Crown corporations and the Federal private sector. In each of the following instances, Federal government action forestalled any possibility of resolution of strikes through normal collective bargaining processes:

**Canada Post:** In June 2011, the Federal government adopted Bill C-6 to to end a lockout of nearly 50,000 members of the Canadian Union of Postal Workers (CUPW) by imposing wage increases less than what the parties had already negotiated.

**Air Canada:** In March 2012, the Federal government referred two Air Canada labour disputes involving pilots (Air Canada Pilots Association) and ground crews (International Association of Machinists and Aerospace Workers) to the Canadian Industrial Relations Board, a move that effectively blocked work stoppages and forced the employees back to work. In both cases, the Board subsequently sided with the employer. This followed two other actions: (i) in June, 2011, the government announced its intent to introduce back-to-work legislation to end a legal strike of Air Canada's 3,800 sales and service agents (Canadian Auto Workers Union), forcing the union and employer to resolve differences within a few days, or face a legislative resolution; and (ii) in October 2011, a dispute involving Air Canada flight attendants (Canadian Union of Public Employees) was immediately referred to the Canada Industrial Relations Board by the Federal government to prevent the employees from exercising their right to strike.

**Canadian Pacific Railway:** In June 2012, the Federal government moved quickly to introduce back-to-work legislation to end a strike by 4800 members the International Brotherhood of Teamsters against Canadian Pacific Railway.

## **OTHER JURISDICTIONS STEPPING UP TO THE PLATE**

**A**t stake is the continuing track record by the Federal government since 1950 of introducing back-to-work legislation by tampering with the definition of "essential services." Other Canadian jurisdictions followed the federal government's lead by introducing back-to-work and other anti-union legislation of their own. These actions are documented in a 2013 Report by the ILO Committee of Experts on the Applications of Conventions and Recommendations (CEACR), which found statutory protection of rights to organize, bargain collectively or strike severely lacking for a growing number of workers in Canada.

In September 2012, the Government of Ontario enacted legislation covering the province's education workers and school boards that would block strikes for up to two years, essentially pre-empting negotiations relating to new contracts when existing ones expire. By enacting a deadline and framework for negotiations, this Act had the effect of imposing a two-year wage freeze for tens of thousands teachers in elementary and secondary schools. Having imposed contracts on the province's teachers, the Ontario government then repealed the Act.

Ontario also released draft legislation in September 2012 that would freeze public-sector employee compensation for 2 years, but more significantly, hand the government sweeping and unprecedented powers to interfere with collective bargaining, interest arbitration and the provisions of every contract negotiated in the broader public sector. The proposed Protecting Public Service Act has not been introduced as a legislative bill, but threatens to grant government not only veto power over collective agreements, but the ability to override or impose any particular provision contained in an agreement, arbitrators, labour boards, and the courts would be stripped of their power to review the government's interventions in collective bargaining.

In other provinces, such as Alberta, New Brunswick, British Columbia, Saskatchewan and Prince Edward Island governments are standing by existing legislation that allows employers to unilaterally designate workers as "essential" or are widening the traditional application of "essential services" to deny full exercise of trade union rights.

These approaches reflect a dynamic playing out across the country as provinces target the rights of public sector workers, including teachers and doctors, as a means of balancing their books. The litany of cases raised by the 2012 and 2013 ILO CEACR are the tip of an iceberg, pointing to a general malaise in Canada which manifests scant respect for freedom of association and collective bargaining. Canada continues to head the list for freedom of association complaints to the International Labour Organization (ILO), unsurpassed by any other industrialized member State.

Provinces stubbornly deny organizing and collective bargaining rights for farm workers: In 2010, the ILO recommended an overhaul to legislation in three provinces that continue to exclude farm workers from organizing and collective bargaining. In Ontario, the government has led the reaction to this ruling by appealing a lower court decision granting its Ontario farm workers collective bargaining rights by obtaining a Supreme Court ruling in 2011 confirming that it may restrict those rights. Yet another recommendation by the ILO in 2012 for needed legislative changes have thus far fallen on deaf ears.

## **CANADIAN INDUSTRIAL RELATIONS CLIMATE CONTAMINATED BY GOVERNMENTS**

**G**overnment behavior in Canada has sent a clear message to all sectors of society that attacks on workers and trade union rights will go unpunished. Here are only three cases to illustrate this trend.

Wal-Mart super saga case: In 2010, the Supreme Court of Canada ruled in favour of a 2005 closure of a Wal-Mart store in Jonquière, Quebec, ruling the company was justified in doing so for financial reasons, and that it was not due to a potentially successful organizing drive by United Food and Commercial Workers (UFCW Canada). However, in the same year, the Superior Court of Quebec separately supported an arbitrator's decision to grant the employees the right to claim for damages due to the closure, a ruling that Wal-Mart subsequently got the Quebec Court of Appeal to overturn. Since then, the UFCW was unsuccessful in having that decision overturned by Canada's Supreme Court. However, it did obtain confirmation of a requirement that would turn the onus on companies like Wal-Mart to justify why they are shutting down such operations. In November 2012, the Supreme Court of Canada indicated that it would hear UFCW's appeal of the Quebec Court of Appeal decision.

Mexico's sovereign immunity is barrier to farm worker rights: In 2012, UFCW Canada filed a complaint with the British Columbia Labour Relations Board alleging that the Mexican Consulate in Vancouver had conspired with Mexican government agencies and two agriculture operators to single out migrant workers employed at Floriala Farms and Sidhu Nurseries near Surrey, British Columbia because they were considered union sympathizers. Both companies have been importing Mexican workers under Canada's Seasonal Agricultural Worker Program (SAWP). The Consulate continues to warn workers about visiting union-run support centres in the Lower Mainland of British Columbia. At a 2012 hearing before the B.C. Labour Relations Board the Mexican government successfully claimed sovereign immunity, a view now being appealed by the UFCW before the B.C. Supreme court.

Target stores take aim at Zellers' workers: In January 2011, the retail giant Target purchased lease agreements for 220 Zellers stores across Canada, after which it sold or shut down the 39 remaining ones. Target then summarily dismissed all Zellers' staff (union and non-union), regardless of status or years of service, after which it invited them to apply for jobs within newly configured store operations, scheduled for opening in 2013.

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# COLOMBIA

■ CUT Confederación Unitaria de Trabajadores

## TRADE UNION STRATEGY FOR COMMUNITY EDUCATOR MOTHERS

**Ligia Inés Alzate Arias** Director, Women's Department,  
CUT, Published by WGSR, 2011

### I GENERAL BACKGROUND

Colombia is characterized by all kinds of violations of human rights by the State, paramilitaries, drug traffickers and common criminals. These forms of violence have generated migrations with displaced populations arriving at the main cities. This leads to disorderly growth without any planning whatsoever and illegal neighborhoods with no public services.

The State offers no solution to these communities where many women are mothers who have to work, leaving their children unprotected and exposed to all sorts of dangers: rat bites, burns, malnutrition, loneliness and sometimes even death.

The psychological effects of poverty and the struggle for survival, especially on mothers and heads of household, have made them get organized and consider alternatives for their children's care. Therefore, in the late 70s they set up community child daycare centers based on community self-management. Initially these child daycare centers were run in the homes of the mothers and depended on a small contribution paid by parents.

In this context, the women sought help from the agencies responsible for social policies, plans and programs for children, the ICBF (Colombian Family Welfare Institute) and, in the case of Bogotá, the DABS (Social Welfare Administrative Department). This help which was denied to them with apologies indicating that this type of work could not be included in existing programs which were limited to scarce coverage through high cost child daycare centers staffed by professionals with qualifications in preschool education. The DABS did agree to provide a minor "help" in the form of a food supplement.

In the second half of the 80s, these two institutions began to be questioned and

consequently, based on the above experience, the women from poor neighborhoods were summoned as a projection of maternity towards the community. In this way the DABS and ICBF programs, the Neighbors Households and Community Homes included the dimension of the so-called Community Educator Mothers. These programs were designed to serve the most vulnerable children up to the age of 6 living in the poorest urban areas of the country.

The legal status of ICBF Community Homes programs is established in Law 89/1988, Decree 1340/1995 and Agreement 021/1996 of the ICBF, and some “Contribution Contracts” that the ICBF signs with Parents Associations of the children enrolled in the Homes.

Along its evolution, the ICBF has been handing over responsibility to these women and communities for the management and execution of the Community Homes, making them take responsibility for child daycare under the categories of “solidarity and voluntary workers” or simply “mothers.”

Currently, Colombia has 85,000 Community Educator Mothers, 72,000 of whom are under ICBF supervision and control, as it is State program run with its own resources. Another 13,000 women work in Bogotá in DABS programs, with funds allocated by the budget of the Capital of the Republic.

## **II THE ROLE OF THE MOTHERS IN THE NEW REGIME**

The following are among the activities performed by the Mothers: cleaning the areas of their homes assigned to the children, getting on with the kitchen work, have the meals prepared on time, welcome the children in the mornings, nutritional surveillance of each child, prepare meals according to the amount, variety and nutritional and hygienic guidelines established by the staff of the Institute, keep track of child weight and height, promote healthy habits and social behavior, carry out pedagogical activities according to training plans, and organize recreation.

The homes could be closed if the Mothers incur in behaviors such as: hiring or entrusting the care of the children to third parties, absence -without just cause- to training events or coordination meetings convened by the Board of Directors of the Parent’s Association or the ICBF, non-compliance with the planning and implementation of pedagogical or nutritional or health activities with the children and parents, non-compliance with food and nutritional standards according to the needs of the child, temporary abandonment or neglect by the Mother in the attention

paid to the children entrusted to her or entrusting such care to a minor, refusal of the Mother to accept the guidance of the Board of Directors of the Parents Association or the ICBF, for the guidelines of the program to be met, among others.

The children are cared for in the place of residence of each Mother or at a community center. In exchange for their “social service” or “solidarity work” (terms which are used repeatedly in the program’s documentation), the Mothers receive a bonus or grant for each child served from the ICBF or the DABS, which is usually around 150 dollars per month. Daily working hours are 8 hours, although actual time often extends to 10 or 12 hours.

The Mothers are provided with the minimum elements to deliver the programs (a kitchen set, an allocation for market goods for child nutrition), some investments are made in improvements of the homes of the volunteers to create “adequate” spaces for the children, and the Mothers are given compulsory basic training in order to be accepted as volunteers of the program.

These regulations only refer to the process of establishing the Community Homes, but not to the employment relationship of the Mothers with the Institution.

The link of the Mothers to the programs employing them has no legal or labor regulatory framework. Regulations for the programs refer exclusively to the functioning of these programs and say nothing about these women’s fundamental right to work.

There is no formal employment contract indicating their employment relationship with the State agencies responsible for the child daycare programs, nor is there any clear administrative contract for the activity performed by these women workers.

These provisions are the best proof that the Mothers are in a position of subordination to the ICBF, given that said State agency is entitled to determine how the service is to be run and can also impose sanctions when the service is not provided as per its instructions.

In 1990, the trade union fight of the Mothers forced the State to recognize them and enroll them in the Social Security System to “protect the basic health of this population and provide the social justice to which they are entitled,” applied to general health and maternity insurance (but not including family health insurance) and payment in the event of disability and maternity leave. The lack of protection continued in the case of accidents at work and occupational diseases, as well as in terms of coverage in the case of disability, old age and death.

In 1993 the Mothers were included in the subsidized healthcare system and in the contributory pension scheme, and in 1995 the enrollment of the Mothers either in the Institute of Social Security or in a Healthcare Promotion Company – as per their choice - was secured. However, the funds provided by this Law (relating to VAT) are not assigned to the social security of the Community Mothers.

In 1999 the Mothers were shifted from Subsidized Scheme to the Contributory Scheme, with which - from not being required to pay anything - they were forced to contribute an amount that was very high in proportion to their income. In 2004 this contribution was reduced to one third.

In 2005 the subsidies to utilities (water and sewerage) enjoyed by the Mothers were withdrawn and once again they were forced to pay a high amount.

Over time the Mothers insisted on comprehensive daycare for the children, in defense of children's rights, requiring the State to provide training for pedagogical qualifications, improvement of nutritional standards or provision of the basic foodstuffs, construction of centers, teaching materials, healthcare and recreation. On occasions their achievements have been the result of pressure, such as marches, takeovers and national and international denunciations.

At the international level, a group of Mothers presented a report to the ESCR (Economic, Social and Cultural Rights) Committee in 1995, which was very welcome. Based on said report, recommendations were made to the government on child daycare and the regularization of the work of Community Educator Mothers.

### **III ORGANIZATION OF THE COMMUNITY EDUCATOR MOTHERS**

In 1987 the Community Educator Mothers of Juan Pablo Segundo, a sector of Ciudad Bolívar in Bogotá, got together to set up a trade union and assert their rights.

In 1988 a board of directors was elected in an assembly and statutes of the Trade Union of Community Educator Mothers were drawn up for their recognition by the Ministry of Labor. The Ministry refused to recognize the trade union arguing that they were not workers, but the following year the ICBF endorsed them as an “organized group”.

In this initial period the Mothers made a demonstration in front of the ICBF protesting about the budget cuts and verbal mistreatment by ICBF officials (calling

them “illiterate”). A statement of negotiation was drafted requesting an increase of the ration, social security and higher pay for Community Mothers. The police stopped them, there were injuries and arrests, but they succeeded in an investigation being performed on the opinion of the Mothers and parents on the program.

In 1990 an assembly was held with the participation of Community Educator Mothers from Cali, Florencia, Barrancabermeja, Barranquilla and a board of directors was elected made up of Mothers from these regions. The statutes were submitted once again for their recognition under the name National Trade Union of Community Educator Mothers, but they were rejected once again.

In late 1991 the structure was supported by the CUT through Patricia Buritica, then Director of the Women’s Department. In this context, an assembly was held with the participation of several regions of the country and decided on their complete name: Sindicato Nacional de Trabajadoras al Cuidado de la Infancia en Hogares de Bienestar Social (National Trade Union of Women Working in Care for Children in Welfare Homes - SINTRACIHOB).

Given that in 1992 the government issued a resolution recognizing the right of all persons to form a trade union, a third submittal was made. This time it was accepted and the trade union is now legally recognized.

Over time it was recognized as national negotiating organization with State agencies and non-governmental organizations in 19 departments of the country.

#### **IV TRADE UNION STRATEGY**

**W**ith time other organizations were created: the *Asociación Nacional de Mujeres por una Colombia Mejor* (AMCOLOMBIA), the Comisión Distrital de Madres Comunitarias, Associations of Community Mothers of Bosa, Suba, Kennedy, San Cristóbal, Engativa, Usme and Fontibón, Trade Union of Community Workers of Santander, Boyacá, Meta and Antioquia.

The CUT provided support through the Casa de la Mujer Trabajadora Sonia Beluci Guzman of the CUT as did several NGOs: Colombian Social Communication Service, ATI, GAP, FUNDAC, José Alvear Restrepo Collective.

The activities developed by the Women’s Department and social organizations in these twenty years led to the consolidation of interagency work, the expansion

of the work with associations of Community Mothers in Bogotá and the creation of new spaces with participation of trade union organizations of Community Mothers (SINTRACIHOBÍ, Amcolombia, District Commission, ADDHIP), NGOs and social organizations at the national level.

Their participation in organizations has allowed the Mothers to move from individual awareness on the need to seek recognition from the State of the status as workers, to the development of strategies for presentation of their complaints and justice with collective social practices, to establishing themselves as subjects of rights-based social processes.

The fundamental principle driving their demands is to be recognized as women workers and be paid the legal minimum salary.

Several fundamental rights of the Mothers and children served by ICBF programs have been affected with the Colombian State undertaking to respect and ensure, through signing and ratifying different international instruments, notably the International Covenant on Economic, Social and Cultural Rights (ICESCR) that, in addition to recognizing the right to work (Art. 6), in Article 7 establishes: “The right of everyone to the enjoyment of just and favorable conditions of work”.

The State also does not prioritize children’s rights when it reduces the coverage and closes childcare homes, evading the commitments made upon ratification of International Covenants, Conventions and Declarations. The State violates the principles enshrined in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in particular Article 11 thereof, when it does not recognize the work of these Community Mothers.

In its communications, in 1995 and 2000 the ESCR Covenant Committee considered that, in respect of the ESCR stemming from International Law on Human Rights, the Colombian State has obligations that must be fully met, and this entails the regularization of the labor status of the Mothers, treating them as employed by a third party for all purposes.

The demands of the Community Mothers have been based on strategies to help them receive the legal minimum salary and be recognized as workers, together with strategies for Education and Promotion of Human Rights, Research, Management and Dialogue aiming at the creation of a trade union organization to exercise their rights, strengthen their organizational processes and the participation of the women’s social movement in advocacy and impact on public policies for children.

The campaign “We Also Have Rights,” social mobilization, urgent actions, lobbying and dialogue, press releases.

The CUT has carried out legal activities before the Constitutional Court in relation to existing and international regulations, presenting the case of the Mothers to the Inter-American Commission on Human Rights Commission.

### **COUNCIL OF STATE: lawsuit to nullify a decree issued the year 2000.**

In the legislative field, a bill on the reorganization and complementation of the Institute’s program has been submitted “By which the rights to work and social security are recognized and the District System of professionalization for community educators of social welfare childcare homes is created and other provisions are issued.”

In respect of research, progress has been made in the discussion on the impact of public policies, State plans and programs for children, delegated to Community Educator Mothers in Colombia. The result of this research is the book *No hay derecho: Las Madres y Jardineras Comunitarias frente al derecho laboral (It’s not right: Community Educator Mothers and labor law)* by Libardo Herreño helps us understand the situation of working women, their chances of accessing the justice system, and the recognition and protection of their labor rights.

Further progress was achieved with the analytical document *Políticas públicas en el Perú, delegadas a las mujeres (Public Policies in Peru, Delegated to Women)* on social plans and programs for children.

Follow-up to the Recommendations of the ESCR Covenant Committee.

Alternative reports on the recommendations of the ESCR Covenant Committee (1995 and 2000) have been updated and delivered to the Department for Women’s Equity, presenting a comprehensive program for children and the solution to their needs in relation to rights such as fair salary and social security, on equal standing as the rest of the Colombian population.

These same areas have provided communication and exchange, reflection and analysis on the situation of these community workers, as well as specific social mobilization actions demanding their rights and justice. An average of 20,000 community workers are directly involved in the process.

These community educators have been advised and accompanied on the use of

legal mechanisms to defend labor and human rights, such as non-judicial actions of self-defense, petitions and enforcement related to the right to social security, the right to work, the right to participate and children's rights.

For educational activities models of non-judicial actions of self-defense, teaching materials on labor rights, the booklet on the lawsuit and overhead transparencies are available. Meetings have been held with representatives of the legislative body interested in the issue of labor rights.

There is dialogue with the ICBF, the DABS, the Ombudsman, non-governmental organizations working on human rights, children's rights, and national and international women's rights. UN agencies such as UNICEF and the Commission on Human Rights, and the Inter-American Commission on Human Rights of the OAS.

## FINAL THOUGHTS

**T**he Mothers are women at the grassroots level who, in a social context of domination and exclusion, have been gaining prominence and participation in their neighborhoods and municipal settings, as community leaders, social leaders, and promoters of actions contributing to the improvement of the living conditions of the population.

In the more day-to-day spaces, such as the family and their social and political environment, the Mothers have broken away, not always realizing it, from social and historical conceptions of what women should be, their roles, their forms of interaction and conduct, accepted values and their permitted expectations in a scenario of subordination to men and their socioeconomic, political and cultural reality.

These women have made an important contribution to the country is important: on the one hand, taking care of children who are the future of Colombia, and on the other, setting an example of how to build social fabric. Indeed, their work has succeeded in allowing educators to reach spaces that previously belonged to other kinds of organizations.

Women are discovering their qualities, attitudes and conditions to materialize actions leading to other actions that start making sense because they are raising awareness on their expectations and on what is required.

In these dynamic situations, women are gaining power through their own choices.

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# DOMINICAN REPUBLIC

- **CASC** Confederación Autónoma Sindical Clasista
- **CNTD** Confederación Nacional de Trabajadores Dominicanos
- **CNUS** Confederación Nacional de Unidad Sindical

## JOINT STATEMENT OF COMMITMENT - 2010

The labor centrals of the Dominican Republic: CASC, CNTD and CNUS, as conclusion of the workshop on “Impact of Labor Unity for the Promotion and Defense of Freedom of Association”, have agreed on this Joint Statement of Commitment.

### **Taking into account:**

That the prevalent economic model increases poverty, widens social gaps and generates great inequity;

That the following have been observed: rise in the precariousness of working conditions, systematic violations of labor rights, especially the right to organize and bargain collectively, while reforms are promoted to reduce the rights set forth in the Law and which are contrary to international labor standards;

That there is deficiency and failure of authorities and State institutions, both for the recognition, respect and enforcement of labor and trade union rights, and for the establishment and consolidation of effective social dialogue.

### **Valuing:**

That the unity of action of the Dominican labor movement is critical to effectively address internal challenges, as well as the challenges present in the national and international scenarios, and to take advantage of existing strengths and opportunities.

### **Considering:**

That labor centrals have taken a step forward in relation to unity of action, based on the work Carried out by the Trade Union Committee, work which needs to be continued and improved.

## **Aware:**

That the strength of the labor movement is fundamental for the promotion and defense of workers' rights and social justice, as well as to build a just, inclusive and equitable society.

## **CASC, CNTD and CNUS THEREFORE AGREE:**

**First** The Trade Union Committee is a space for coordination, dialogue and consensus-building on inter-trade union programs to promote the adoption of unitary gender-based positions, plans and proposals on the issues affecting labor and production. One of its main objectives is the promotion of decent work for all workers.

**Second** To maintain the effort of unitary action specified by the Trade Union Committee, recognizing the legitimacy of the decisions made. This unity of action is consistent with the process of self-reform promoted with full autonomy by the TUCA.

**Third** Through Trade Union Committee promote the adoption of joint positions on issues that may affect the conditions of life and work of workers and their families.

**Fourth** To respect the political agreements and decisions adopted, as well as the plans and programs approved by the Trade Union Committee, and promote the respect and implementation thereof within their respective organizations, and socialize them with their affiliated organizations.

**Fifth** Promote all practices contributing to the process of labor unity, rejecting those that might weaken it, whether originating from within organizations affiliated to labor centrals or other sources.

**Sixth** Strengthen the ties and actions of solidarity with brother and sister workers and their trade unions throughout the world, especially with Haiti and Chile recently affected by natural disasters, actively participating in international labor alliances for humanitarian aid and promotion of development focused on decent work.

**Gabriel del Río Doña**, Secretary General CASC  
**Jacobo Ramos**, Secretary General CNTD  
**Rafael Abreu**, President CNUS

Signed in **Juan Dolio**, San Pedro de Macoris,  
Dominican Republic, on March 24, 2010

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# DOMINICAN REPUBLIC

■ CNUS, CONFEDERACIÓN NACIONAL DE UNIDAD SINDICAL

## TRADE UNION SELF REFORM AND MIGRANT WORKERS IN THE DOMINICAN REPUBLIC

**Eulogia Familia** Vice President and person in charge of the Department of Gender Equity Policy , Published by WGSR, 2010

### I LABOR AND MIGRATION

Neoliberal free market economic policies, with their structural adjustments and privatizations, have increased computerization of work and implemented new productive forms such as subcontracting. This has created populations excluded from the exercise of their rights due to the invisibility of their economic contribution and their political status as a decisive segment of our society.

In this context, Dominican women have had two main sectors of employment: paid domestic work and industrial duty free areas.

Women domestic workers are affected by the macho culture of sexual division of labor whereby, workwise, their situation is more vulnerable having to endure vexations ranging from moral and sexual harassment, physical violence, rape and pregnancies unrecognized by the father, and even be put in prison for acts they did not commit. In addition to this, there is the problem of their discrimination by the Labor Code itself.<sup>1</sup>

Duty free areas expanded through protectionist measures of the State, offering formal but precarious jobs, especially in the textile industry. These jobs have mostly attracted women from rural areas, without work experience or political savvy, making them easy prey for exploitation: with low wages, no labor rights or social security and barriers to the right to maternity, among others.

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<sup>1</sup> The *Oficina Nacional de Estadística* (ONE), according to its 2007 national income survey on household income and expenses (ENIGH), estimated that 9.1% of Dominican households have pay an employee for the domestic service, of whom 22% sleep in. In relation to total employment, women domestic workers account for 5.6% of total employment, equal to 213,000 workers, of whom almost 97% are women. Only 15% are provided with some health service.

In the 80s women domestic workers preferred to work in the textile industry in duty free areas. Although paid less, it raised their self-esteem and put an end to the long hours of slave work with no fixed time for the end of the day.

As of the 90s there has been a slight change in their treatment in industrial parks, with greater respect for labor rights due to pressure from Dominican unionism - allied with the international trade union movement and the ILO - triggering the modification of the Labor Code.

Additionally, the modality in which the women domestic workers are hired has been changing, with greater freedom of transit and multiple jobs with two or three employers, in lieu of concentrating the work in the confines of a household.

These women workers themselves – familiar with the production scenario of duty free areas – established small textile workshops in family units to make items of clothing ordered by the company.

While the social reality and labor conditions of these Dominican women were changing, another labor-related phenomenon began in the country: emigration of nationals and immigration of Haitians.

The population of Haitian immigrant workers in the Dominican Republic is between 1.5 and 2 million although, if we add those entering and leaving the country on a regular basis, the figure could reach 3 million.

Haitian immigration covers the empty spaces left by Dominicans that - for men - are the agricultural sector: farms, soil preparation, grain and fruit harvesting, construction, surveillance and care of farms and luxury residences; and among women: domestic service.<sup>2</sup>

In 2009 another reality was experienced in duty free areas: the financial and economic crisis linked to the entry of Chinese textiles into the North American market and the fall of US protectionism for this industry. This deepened the US inability to compete leading to the closure of companies and downsizing in others, despite their fuel subsidies and the 40% of the minimum wage that they paid their employees. At present many of the workers dismissed from duty free areas have had to engage

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<sup>2</sup> Migrant workers in the Dominican Republic are also identified with so-called informal work. At present, of every 10 jobs created, seven are informal (thesis of Pedro Rodríguez, representing the *Consejo de la Empresa Privada* (CONEP) and the *Confederación Patronal de la República Dominicana* (COPARDOM) in the tripartite Conference of Trade Union Centrals held on February 25, 2010.

in irregular migration or work in domestic service. This, however, is not due to lack of qualifications but to lack of opportunity of a job to maintain their dependents or continue studying given that some of these women are university students.

The truth of the matter is that women domestic workers and women migrant workers share scenarios of extreme exploitation, with no social security and generally very low quality of life and marginality. Both are unique in that they are not informed of their rights or have not owned them, usually they are victims of human trafficking even within their own territory, as sometimes happens with women domestic workers from rural areas. Immigrant workers experience similar situations, especially among those without documentation because, in this case, border police and military authorities sometimes intervene.

## II ACTIONS OF THE CNUS IN THE CONTEXT OF TRADE UNION SELF-REFORM

The CNUS was established in 2005 after a long process of unity and reflection that proposed internal political transformations, to build strategies facilitating a better political location of workers in view of the weakening suffered by neoliberal onslaught and trade union dispersion.

We have mentioned that the structural unit is not enough; it is also necessary to entice similar sectors that are exploited or excluded. We welcomed the points made by the TUCA in its Foundational Congress on the need for the labor movement to reform itself and include, among its members, other excluded segments working without formal employment contracts. In this context, it was deemed necessary to define trade union policies in relation to invisible sectors such as domestic work and immigrants, especially from Haiti.

**Immigrant Workers.** Regarding immigrants, the CNUS created its National Support Department to track labor issues relating to immigrants. With the support of the AFL-CIO Solidarity Center, a program was created in 2007 to inform and combat illegal trade and human trafficking for labor exploitation, with the objective of documenting Haitian workers in the areas of construction, sugar, smallholder farmers, duty free areas and the hospitality sector, as well as enlist trade union communities to fight and defend the labor rights of immigrants.

The structures affiliated to the CNUS that participated in this process were the five sectors of economic activity that were most important in terms of members due to the employment of immigrants in their communities:

- *Unión Nacional de Trabajadores de Hotelería, Bares y Restaurantes (UNATRAHOREST).*
- *Federación Dominicana de Trabajadores de Zonas Francas (FEDOTRAZONAS)*
- *Confederación Campesina Dominicana (CCD)*
- *Federación Unitaria de Trabajadores Azucareros (FUTRAZUCAR).*
- *Federación Nacional de Trabajadores de la Construcción (FENTICIONMM)*

For a year we traveled the country documenting illegal trade and human trafficking, informing vulnerable groups, both Haitians and Dominicans, on their labor and human rights as migrants with the slogan “In search of decent work for immigrants”.

With the leaders and activists involved, a Support Network for Immigrants was created in which each organization has a representative, in which all serve as facilitators, including its coordinator.

The program was disseminated through forums, training workshops, brochures and posters with popular illustrations printed in Spanish and Creole, a theater group staging situations illicit trade and human trafficking, press releases, interviews to the coordinator on radio, television and newspapers. A magazine was also published with a survey and alliances with NGOs following-up on the issue.

As tools we used the Dominican Labor Code, the UN protocol against human trafficking, core ILO Conventions, as well as conventions specifically related to migration, the UN universal declaration of human rights, law 137 on human trafficking, the law on migration and others on eradication of discrimination and the recognition of cultural diversity favoring tolerance.

The staff of the Network also conducted a survey of the construction industry in the eastern region, supported by a team selected by FENTICIONMM that was trained by an NGO specialized in surveys. The survey was carried out on weekends by a two partners (one Dominican worker and one Haitian worker), with forms in Spanish and Creole. This task also fostered greater integration between Haitian and Dominican workers, whose relations have traditionally been cold and distant.

The survey revealed a high percentage of Haitians (66%), often without documentation, exposed to human trafficking, lack of written contracts, harder tasks than those assigned to Dominicans in the same industry, and even physical violence (beatings and confinement).

This information led to the need to organize immigrant workers. Consequently the CNUS and FENTICONMMC, supported Solidarity Center, ran a program to organize immigrants to defend their rights. There are two organizers for this purpose that, with the support of the Network and the coordinating commission of the program, are in charge of providing regular training and legal support by lawyers of the CNUS.

**Domestic Workers.** Once the diagnosis was strengthened with interviews to focus groups, we listed to the partners of agricultural workers who told us they also perform household chores, sometimes described as slavery, which made us to open a space to pay attention to the rights of these women workers and check on the reality of immigrants working in agriculture.

In 2009 the Department of Gender Equity Policy of the CNUS conducted a strategic planning workshop under the auspices of the Solidarity Center agreeing to: increase the membership of the CNUS; organize the women workers in the sectors where women are mostly employed; coordinate campaigns to increase membership in trade unions. Informal women workers, women workers in duty free areas, trade, communication, gas stations and in domestic service were selected to participate in the workshop.

Now with knowledge on the economic and social reality of women domestic workers and aware of the need to organize them for ownership of their rights, we contacted the *Asociación de Trabajadoras del Hogar* (ATH), proposing a plan for their organization and the creation of an entity with characteristics in sync with the issues of these women workers.

The ATH was founded 20 years ago and has a tradition of fighting for the rights of women domestic workers, affiliated to COLACTRAHO and which, in 1997, was a close ally of one of the founding organizations of the CNUS, but lately has been lacking institutional life and the necessary organic strength to generate a change in the life and rights of women domestic workers.

Today - with the support of the CNUS - the ATH has been revived and, based on the procedures established for immigrant workers, we developed organizational campaigns that added 300 members, of which 70% are immigrants.

The campaigns were conducted on Saturdays from 7 am to 9 am when these women domestic workers were getting off the bus to go to their work. Posters and flyers were also used, and the participation of women leaders of the ATH in the mass media was facilitated.

Workshops were also conducted for awareness raising and ownership of rights, a binational forum, and activities with NGOs to influence public policies, including the approval of the draft ILO international convention. Legal support was provided against domestic and labor violence and denial of rights.

In 2010 we will be launching a survey on domestic women workers, with the same procedures used by the survey on construction, with the ATH and the *Asociación de Mujeres Unidas del Cibao (ASOMUCI)*, affiliated to the CNTD, acting as receiving entities.

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# HONDURAS

■ **CUTH** Confederación Unitaria de Trabajadores de Honduras

## THE ORGANIZATIONAL PROFILE OF THE CUTH AND THE REPRESENTATION OF WORKERS OF THE INFORMAL ECONOMY

**Eugenio Rodríguez Obando** Secretary of the Social and Informal Sector of the Economy of the CUT and Secretary General of the Federation of Worker Organizations of the Social and Informal Sector of Honduras (FOTSSIEH)<sup>3</sup>, Published by WGSR, 2011

This paper presents the general characteristics of the CUTH, as well as the organization of workers in the informal economy, which is a direct application of the concept of trade union self-reform in terms of expanding union structure in the broad universe of the working class.

It is also a tribute to our Secretary General Israel Salinas Elvir who died in a dramatic event in February 2011.

### I OVERVIEW

The Confederation was created in 1992 based on five organizations, two of which commanded the process (FUTH and FITH), and the other three (FESITRADEH, CNTC and CODIMCA) complemented the process (see below). The Confederation has legal status since 1993.

It was established with different sectors: unions, locals, smallholder farmers, and ethnic groups, teachers in primary and secondary education.

The CUTH came up with the idea of contributing to the unity and the strengthening of the organization of Honduran workers by unifying various popular organizations, thus overcoming traditional dispersion. The CUTH sees itself as a transitional organization until a single central is created.

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<sup>3</sup> The text reviews the materials used by the CUTH in 2010 in activities with the TUCA in the framework of the Labor Market project, with cooperation of ISCOD-UGT. It is also based on the profile of the FOTS-SIEH presented by Vilma Arévalo to the Streetnet Southern Cone Meeting (Buenos Aires, March 2011), which FOTSSIEH attended as special guest.

**Other objectives are:**

- make constant efforts to attain a truly democratic society.
- encourage the pursuit of our own style of development which is identified with national interests and the needs of the majority.
- fight for human rights, peace, sovereignty and national independence.
- fight to preserve the ecology and environment.
- promote the recovery and defense of national culture and identity, as well as the development of a logic of their own within Honduran population.
- contribute to the definition of an alternative of economic, social, political and cultural integration in Central America, as per the logic of the majority.

It has representativeness of 213,000 workers, of which about 45% pay their dues.

There are 17 leading organizations: national federations, sectorial federations (community organizations, *patronatos*, indigenous organizations), teacher-training schools and smallholder farmer organizations (unions, centrals and councils).

**National Federations are:**

- **FUTH**, *Federación Unitaria de Trabajadores de Honduras* established in 1980, with legal status since 1988. During the first years it was in charge of the General Secretariat based in the STRAUNAH, *Sindicato de Trabajadores de la Universidad Nacional Autónoma*.
- **FUTH**, *Federación Independiente de Trabajadores de Honduras* established in 1985, with legal status since 1988. Its rank and file are organizations of municipal and maritime workers and workers in the informal economy.
- **FESITRADEH** *Federación Sindical de Trabajadores Democráticos*.
- **FOTSSIEH**, *Federación de Organizaciones de Trabajadores del Sector Social e Informal de la Economía de Honduras*.
- **FENAPESCA**, *Federación Nacional de Pescadores Artesanales*.

**Another two federations are sectorial:**

- **FPNH**, *Federación de Patronatos Nacionales de Honduras*.
- **FEPACOP** *Federación de Patronatos de la Cordillera del Pijol*.
- **FETRIMLH** *Federación de Tribus Indígenas, Mayas Lencas de Honduras*.

In the indigenous sector ONIL (*Organización Nacional Indígena Lenca*) is also affiliated.

**Organizations of vocational schools are:**

- **COLPROSUMAH** *Colegio Profesional Superación Magisterial de Honduras*.-  
**COPEM**, *Colegio de Profesores de Educación Media*.

- **CPEH**, *Colegio Profesional de Enfermeras de Honduras*.
- **COLPEDAGOGOSH**, *Colegio de Pedagogos de Honduras*.

**Smallholder farmer organizations are:**

- **CNTC**, *Central Nacional de Trabajadores del Campo*, created in 1985, based in the **FUNACAMH**, *Frente de Unidad Nacional Campesino de Honduras*, 1979.
- **CODIMCA**, *Consejo para el Desarrollo Integral de la Mujer Campesina*.
- **OCH**, *Organización Campesina Hondureña*.
- **UTC**, *Unión de Trabajadores del Campo*.

CNTC and CODIMCA are also part of COCOCH, *Consejo Coordinadora de Organizaciones Campesinas*, and entity of sectorial leadership.

There are twelve organizations of public employees. The main one is the ANDEPH, *Asociación Nacional de Empleados Públicos de Honduras*. Three of the twelve organizations are municipal.

The major industries represented are construction, electricity, metals, shirt shops, graphics and brewers. In the past, plastic and tobacco organizations were very important.

## **II DESCRIPTION OF THE ORGANIZATION OF WORKERS IN THE INFORMAL ECONOMY**

The foundational organizations of the CUTH already included an organization representing workers in the informal economy. i.e. the SUVANH, *Sindicato de Vendedores Auténticos Nacionales de Honduras*, established in San Pedro Sula in 1985 with 280 members and founder of the FITH. In 1989 it gained legal status and its membership increased to about 3,000 workers.

In 2001, the SUVANH, along with another 18 organizations, founded the *Federación de Organizaciones del Sector Social e Informal de la Economía de Honduras*, FOTSSIEH, which in 2007 changed its name to FOTSSIEH. The following year it obtained legal status.

After a shaky beginning (which included the departure of seven founding organizations and the loss of the local main offices due to a fire), the Federation was consolidated as of 2004.

Those represented are mostly autonomous workers, including vendors on the streets/markets and different trades: sale of food, sale of handicrafts, leather workers, sale of newspapers, shoe polishers, sale of flowers, photographers, locksmiths, watch repairers, car mechanics, carpenters, dockworkers, tailors. It also brings together NGOs focused on senior citizens and youth.

In 2009 the Federation had 45 organizations in 14 departments of the country and 50,000 members (half women). Growth has been recent (in 2005 it only had 17 organizations and 12,000 members).

The center of the membership is in Tegucigalpa, followed closely by San Pedro Sula.

The main organization is ANATRAEINH (*Asociación Nacional de Trabajadores Estacionarios Independientes de Honduras*) (over 4,000 members), followed by SULMERH (*Sindicato Unificado de Vendedores Auténticos Nacionales de Honduras*) and ASONAVENH (*Asociación Nacional de Vendedores de Honduras*).

#### **The Federation is based on two concepts:**

- “Being immigrants one’s own country” referring to the fact urban informality results from the failure of the agrarian reform and the establishment of enclaves of *maquila*.
- “If we are born in the street, we cannot bequeath a piece of it to our children”.
- Institutionalization of popular markets, local and national fairs. In this framework, it promotes self-financing, the development of cooperatives and other enterprises of the social economy.
- Creation of healthcare and housing systems, and schools specializing in various occupational areas.

#### **Its organizational strategy has focused on:**

- Consolidation of the organizations through tours with direct contact visits and mass assemblies to take note of the existing problems and act *in situ* to solve them and/or act as intermediaries.
- Improvement of managerial capacity through a training program on tools for union management, leadership, legal framework, basic accounting, bargaining.

At the level of grassroots organizations, four cooperatives have been established, one of which is called SUVANH (to pay tribute to the founding union).

Courses have also been developed with INFOP (the Vocational Training Institute) and the University.

**Significant participation in public policy was achieved during the government of President Zelaya:**

- The Program to Support the Informal Economy of Honduras, with a line of promotional credits.
- The Public Housing and Solidary Credit Program, PROVICCOSOL, under which a plot of 10 blocks was provided by the Municipality of San Pedro Sula to place street vendors affiliated to at least nine organizations. Initially there were five applicants (SUVANH, ASOLUSH, SINPRODECAYSH, AFOCAH and COMSEL), then another four joined in (ANAVIH, ASAVEMALI, ASVASCOS and SINCOSIH).
- The National Panel Discussion on the Honduran Informal Economy with the National Parliamentary Representation. Eight committees were created: Specific needs of stationary workers or street vendors; Markets; Footwear Industry; Garment Industry; Crafts; Services; Senior Citizens and Children; Violence and Citizen Security.

Three projects were also achieved: the *Public Spaces Típica Artesana for affiliates of the CORACTS* with 60 locations, *Popular Public Space Eugenio Rodríguez O.* with 540 locations, and the *Public Space La Doña* with 120 locations.

All these initiatives have been on hold since the coup of June 28, 2009. In the case of plot of land that had already been granted through legislative decree and only required notarization, the current administration has tried to withdraw this entitlement by dividing the organizations, but the latter have continued with unified actions that firmly upheld their right.

Crime, public safety and drug dealing are important concerns linked to the complicity and criminalization of the repressive bodies of the State, which have changed the customs of the sector forcing a late start and an early end of the day, and the use of taxis instead of buses. The main offices of the Federation suffered a series of attacks, the last one on February 5, 2011 with the looting of equipment and files in response to their participation in the resistance. The police refused to receive the complaint.

Since 2006 the Federation has been highly regarded by the government that had just been sworn in at the time of the creation of the Support Program for the Informal Economy of Honduras, including a program of public housing and solidary

credits (PROVISOL), ascribed to the Presidency.

The Federation has represented its central and the other two centrals that are part of the tripartite committee of the PROVISOL, and has also participated in the National Discussion on the Honduran Informal Economy, with the National Parliamentary Representation directed by the President of the Nation, that worked based on eight committees: concrete needs of stationary workers or street vendors; markets; footwear industry; garment industry; crafts and services; senior citizens and children; violence and citizen security.

In this context, in 2007 a bill on the Informal Sector, the first draft of which was written by FOTSSIEH and to which that government had promised to approve before the end of its mandate.

The Federation also made progress in the implementation of the reform of 2005, in which it had participated to create a system of collective affiliation for autonomous workers based on legally recognized organizations, with a 50% contribution by the State.

Finally, Petrocaribe was going to earmark part of the proceeds to create a social fund for social initiatives linked to the sector.

These projects have not been materialized because of the coup in 2009.

In parallel, after requests for tenure of property to set up markets and production projects, the Federation reached agreements with municipalities. In San Pedro Sula 5,000 vendors were placed in this way.

The Federation is a member of STREETNET international and of SEICAP, *Red Sindicatos de la Economía Informal de Centroamérica y Panamá* established in 2006 in Managua. The former develops a project on gender training and youth, and the latter on child labor. It is also developing a strategy of alliances and integration with locals and smallholder farmers in conjunction with Scandinavian unionism.

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# MEXICO

- **UNI ICTS** Union Network International
- **STRM** Sindicato de Telefonistas de la República Mexicana
- **UNT** Unión Nacional de Trabajadores

## YOUNG WORKERS IN CALL CENTERS: THE ATENTO CASE IN MEXICO

**Engineer Francisco Hernández Juárez** Secretary General of STRM, Collegiate President of UNT and World President of UNI ICTS, Published by WGSR, 2012

**C**all centers are a new sector of the telecommunications industry with ten years of exponential global growth. In 2003 UNI, the global union federation representing telecom workers, began a campaign to highlight the serious breaches of labor rights of these call centers based on their anti-union policy. This situation is aided by the fact that most of call centers subcontract their workers.

Typically call center teleoperators are young (under 30) and female (70%). Call centers usually work with less than 50 employees, but many centers have more than 200 employees, entailing that 75% of workers concentrate in this sector.

The STRM (henceforth *Telefonistas*) is president of the newly merged Telecommunications and Information Technology Services (ICTS) sector that joined the campaign and began to develop a national strategy. In Mexico there are more than 215,000 workstations spread across 21,000 companies that generate more than 305,000 jobs. Therefore, Mexico accounts for 30% of the centers in Latin America. This business has grown at a year-on-year rate of 21%, more dynamically than the average for the region (15%) and well above the global average (4%).

Although telecenter workers have joined *Telefonistas*, the most important episode evidencing the serious labor issues of this sector occurred recently and refers to the company Atento, which is part of the Spanish multinational Telefónica. This company, like many others, has turned to the so-called “employer protection contracts” in Mexico, a sham organization used to control the actual exercise of the right of association.

Workers of Atento turned to *Telefonistas* for support and they received advice and training on labor rights, and finally accepted their request to establish a com-

pany-specific section (187) within the STRM to represent them before employers. Meanwhile, with the support of the Mexico office of the AFL-CIO Solidarity Center, *Telefonistas* carried out a research for which it interviewed 100 workers. We have used this research for all the data and analytical information presented in this paper. *Telefonistas* also accompanied laid off workers of Atento in legal proceedings demanding their reinstatement.

The company has refused to accept this new situation, which has been supported by public authorities, a common denominator of the struggle against employer protection contracts.

This paper reports on the situation as an example of union work to incorporate new collectives of workers that are object of the regional trade union self-reform program of the TUCA, to which the UNT is affiliated, and to promote the solidarity of international unionism.

*Telefonistas* has also reported the case to the National Human Rights Commission (CNDH) and the Human Rights Commission of the Federal District (CDHDF) and to international trade union organizations (UNI, ITUC, TUCA). In particular, UNI Americas has been requested to condemn the Global Framework Agreement or Code of Conduct signed with Telefónica in 2000, which has remained in force ever since and includes Atento as a subsidiary. Specifically, Article 2 in the section on Freedom of Association and Right to Collective Bargaining states that the company is committed to “recognize the right of workers to form unions” and that “all workers shall enjoy the right to form and join trade unions”. Other violations of this agreement refer to its content on job stability, minimum wages, working hours, and safety and security in the workplace. The Atento case was also presented to WGTN (Working Group on Transnational Companies) of the TUCA, to global union federations and to FES Uruguay (Union Action against Transnational Companies, Montevideo, November 2011), to representatives of ILO-ACTRAV and to the ILO Workers’ Group.

It is clear that Atento also violates ILO Convention 98, which Mexico is obliged to respect because of its ILO membership, even if it has not ratified it which, by the way, is one of the main pending issues in this country in terms of international labor standards.

What is at stake in the Atento initiative is not one more process of organization, but one of the first battles that independent and democratic unionism must fight to shake off the cancer of protection contracts. The labor movement is witness to the shame and insult to which workers are subjected simply for seeking to exercise their right to freedom of association.

## I THE COMPANY

Atento has a multinational management structure and presence in over 10 countries. It specializes in the provision of customer services for relations between companies and their customers through contact centers or multichannel platforms. Atento has over 100,000 employees worldwide.

Atento Mexico and Central America began operations in Mexico in 2002, quickly ranking second in importance in the company's global business, following Brazil and even above Spain. In Mexico the company owns a small share of Banco Bilbao Vizcaya (BBVA) (9%).

Atento Mexico employs over 18,000 employees across 15 centers. Its main customers include Wal-Mart, BBVA and Santander banks, AIG and MetLife insurance companies and some government institutions.

## II EMPLOYER PROTECTION CONTRACTS

The Atento workforce is tied to collective bargaining agreement signed between the company and the *Sindicato Progresista de Trabajadores de Comunicaciones y Transportes de la República Mexicana* (SPTCTRM), controlled by Ramón Salvador Gámez Martínez who has a long history of use of violence to destroy independent trade union campaigns and is a fugitive from Mexican justice on charges of aggravated sexual abuse of minors. This contract, as hundreds of others that Gámez controls, are known as "employer protection contracts", signed without the knowledge or participation of workers who are unable to vote for the union to represent them and the contract to regulate their relations with the company. In short, the purpose of the contract is to prevent workers from exercising their right to freedom of association and choose their representatives. Another tactic used by the company and the employer protection union is the compulsory affiliation of newly hired employees. Before they sign their employment contract they are forced, without any briefing whatsoever, to sign their sheet of membership to the protection union.

In fact, none of the respondents indicated that they were aware of the existence of the contract and of union representatives in the call centers. No worker had participated either, not even once, in a meeting or in a union election process. The contract establishes only the minimum protection of workers stipulated in the law, and some clauses put workers at a distinct disadvantage vis-à-vis the company.

Consequently, the company violates the Federal Labor Law (LFT in Spanish) since such law establishes that “no one can be forced to join or not join a union” (Art. 357) and instructs union leadership to report every six months at least to the assembly, providing a full and detailed account of the administration of union assets, and that this obligation is not dispensable (Art. 373). Lastly, it forces unions to represent their members in defense of their individual rights (Art. 373).

### III SUBCONTRACTING

The company uses two forms of recruitment that violate the rights of teleoperators to stable and well-paid employment. In the first form, workers are hired through three different social reasons to elude their legal responsibilities with their workers. With the second form, the company subcontracts through agencies specializing in human resources (such as Adecco and Pentafon), with the same objective. When operators come to work through one of these agencies, their monthly salary is up to US\$ 75 less than for operators employed for the social reasons of Atento.

Subcontracting is not yet included in the LFT but the political debate continues due to its complexity and confusion with other existing figures, such as intermediaries. In this specific case subcontracting infringes Art. 5 section XI of the LFT which establishes that no agreement to pay a salary lower than the salary paid to another worker in the same company shall have legal effect for work of equal efficiency, of the same type or equal working hours.

### IV OTHER VIOLATIONS OF FEDERAL LABOR LAW

Below we describe the violations to this Law by the company.

Unjustified Dismissals. Our research found evidence of discrimination against workers who want to learn about their human labor rights. In 2007 forty workers who had formed a union were dismissed. In another episode in 2008 fourteen workers were laid off because they were discovered studying labor law. However, Art. 47 of the LFT lists the only reasons for termination of employment, among which there is no mention of forming and joining unions or seeking information on labor rights. It also notes that if the employer does not provide written notice of some cause for the dismissal to the worker and the authority five days of the dismissal, it shall be considered unjustified dismissal.

Article 123, section XXII of the Mexican Constitution, and Art. 47 of the LFT state that workers may only be removed from their jobs for justified cause, which is defined based on certain acts and very specific offenses. Trying to form a union is not included in any of these causes. Workers who have been dismissed without justification are entitled to their reinstatement or severance pay.

**Intimidation and Harassment.** Intimidation occurs every single day in call centers in order to make certain workers resign “voluntarily”. Research has also revealed that the company hires private security guards to track and follow dismissed workers, as well as members of various NGOs helping workers defend their human rights. In some cases this surveillance has been through phone calls to dismissed workers. The individuals who call the dismissed workers indicate that they are human resources of the company and are informing on the danger to which these workers are exposed if they sue Atento. In others, intimidation has occurred with company staff appearing directly at the homes of those dismissed. Even the security guards of *Telefonistas* perform observation sitting in different cars stationed outside the Trade Union Training Institute, where the first workshops on labor rights were conducted.

The company has constantly and selectively persecuted workers who choose to join the STRM. Threats are expressed to the boards of directors and supervisors, as well as in their meetings with the teleoperators. A group of workers were threatened by their supervisor as follows: “Anyone who joins the *Telefonistas* union will be dismissed with US\$ 44 settlement, regardless of seniority.” In another meeting, workers were encouraged to join the protection union with the manager saying: “Why would you want to join another union if you already have a union here right inside the company?”

The Federal Criminal Code criminalizes threats and punishes those who in any way threaten others to cause physical harm, harm to their property, their honor or their rights, and is extensive to other persons to whom they are linked. It also punishes anyone who threatens in order to prevent others from doing what they are entitled to do (Art. 282).

**Wage Discrimination.** The company uses different strategies to infringe its obligations in respect of wages. First, the wage received by teleoperators, which varied between 150 and 260 dollars a month (in 2009), is below the minimum wage (US\$ 330). Moreover, the amount of the wage depends on the number of sales made by an operator during the week, by means of a “commission” which replaces other benefits such as the “productivity bonus”. The salary band of teleoperators is also

reduced, discounting social benefits. The latter violates the LFT which prohibits discounts, except in very special cases (Art. 110).

Lastly, the arbitrary variation of the wages could be considered defrauding the Mexican Social Security Institute (IMSS). The law states that employers are required to register and enroll their workers at the IMSS, communicate their new employees and employees who are no longer in the company, as well as the changes in their salary, within five working days (Art. 15 of the Law on Social Security). As the variations in wages are so drastic, it is likely that Atento is not communicating them to the IMSS in time and form, thus incurring in illegal practices.

It seems that recently the company has failed to pay the wages established in the Collective Labor Agreement in effect, signed between Atento and the employer protection union with the support of the labor authority. This means that officially registered wages for 2011 range between US\$ 465 and US\$ 562 but in actual fact teleoperators get paid between US\$ 200 and US\$ 246. This means a huge theft by the company and the employer protection union, with the endorsement of the labor authority.

**Working Hours and Overtime.** The company changes working hours indiscriminately as a way to increase its revenues and to exert pressure on workers whom it wants to force into voluntary resignation. Legal minimum holidays are not respected nor is overtime paid: even when workers are forced to work on holidays with the promise that those hours will be paid with the legal additional, when they receive their paycheck it has no wage increases corresponding to overtime. The company also uses the figure of “unpaid leave” when there are problems with the machines or the system crashes, workers are instructed to leave early but have to pay back those unworked hours another day.

This violates several articles of the LFT that establish that workers and employers shall determine the working hours without exceeding the statutory maximum, it does not allow more than 9 hours of overtime per week, hours that shall be paid double, and triple if more than 9 hours overtime; the day of rest is Sunday preferably, though another day may be chosen by agreement between the two parties, and a surcharge is payable for work on Sundays (Article 59, 66, 70, 71, 73).

**Breaks and Rest Periods.** The company limits the time to eat and go to the toilet. Such practices violate the LFT which establishes a minimum of 30 minutes daily break in the middle of the workday (Art. 63).

Safety and Health. The company has direct responsibility in relation to the lack of safety and hygiene of the equipment and facilities of call centers: no worker has their own headset to make and receive calls, which causes ear infections and hearing problems; the company activates air conditioning at cold temperatures for operators “perform better at work”; no pauses between calls are allowed; there are no screen protectors and LCD screens are used that affect visual capacity of workers; the work pace is very intense; there are no mixed committees for health and safety at work; and there are no appropriate emergency exits.

There is no infirmary or medicine cabinet with minimal first aid implements. Two cases were reported in the study: one worker slipped inside the call center and, as a result of the fall, broke his ankle but nobody minimally prepared to give first aid and he had to wait for an external medical service; and a pregnant woman worker suffered a miscarriage due to the negligence of the company’s trusted staff to provide first aid upon the signals of distress.

Medical disabilities of workers are not respected and deductions are made of the days needed to visit the doctor. Workers also declare that there are not enough toilets and that most call centers do not have areas assigned for food consumption.

All these irregularities generate a pattern of deterioration of the physical and emotional health of teleoperators the longer they work in the company. In many cases this deterioration leads workers to leave their jobs without claiming the benefits granted by law.

When asked about problems that medical doctors identified as the cause of their health issues, a woman worker said: “Sitting for so long. We are not allowed to disconnect that long, right? And the eyes, constantly on the monitor, are affected. Damage to the kidneys from sitting for so long and not drinking water, from not standing up often enough. We have a 15 minutes break, and if we disconnect to go to the toilet or drink water, it is time we have to pay back at the end of our working hours. So as not to have problems, I do not get up at all... I don’t drink water and that how I got my kidney disease.”

Testimonies on working conditions in call centers include: “chairs and machines are not leveled as they should be, often the chairs are too low in relation to the desk but cannot be lifted higher. [In my area] there are one or two [chairs that work], and there are ten places. We fight for them, we steal them from each other” ... “the water we drank ... was contaminated. One of my workmates fell ill because the water was contaminated.”

This sector suffers of the occupational diseases mentioned by the LFT, such as neurosis caused by continual contact with other people, and hearing loss and deafness caused by constant exposure to noise are present in this sector.

All these situations violate the LFT to the extent that: it instructs a 30-minute break every day in the middle of working hours (Art. 63); it requires the company to keep medications and necessary first aid materials in the workplace, as well as training of staff to provide such first aid (Art. 504); it requires the organization of health and safety committees in companies and establishments (Art. 509 and 510); it requires provision of sufficient number of seats or chairs for workers in the workplace (Art. 132).

The LFT also stipulates that if the company has more than 100 employees it must set up an infirmary with medications and first aid materials for healthcare and emergency surgery, staffed by competent personnel. If the company has more than 300 workers it must set up a hospital, with medical and auxiliary personnel. Also, with the consent of workers, employers may contract nearby hospitals to allow quick and easy transfer of workers to receive the aforementioned services.

There are no specific regulations regarding the work pace, but Art. 57 of the LFT states that, in the case of excessive working hours, workers may apply to the Local Conciliation and Arbitration Board (JLCyA) for the modification of their excessive working hours (Art. 57)

The Law on Civil Protection for the Federal District instructs administrators, managers, real estate owners or tenants to conduct drills at least three times a year, given the seismic history of the city (Art 39).

According to the Mexican Official Standard 1999 NOM-O/STPS on conditions governing health and safety in the workplace, employers are obliged to provide clean, safe and appropriate spaces for workers to perform their duties in order to avoid affecting their health, as well as areas for toilets and food consumption.

Discrimination of Women. Harassment and discrimination against women is evident even at the time of recruitment. A woman worker described her interview: "To be promoted ... [I was asked] if I was married, if I had children, how many children and what were their ages. I was told, "If you want a promotion, I need you here, you must not miss a single day. If you get hit by a car, you get up and you come to work..." So they told me. "Do you think you can get this job done even if you have kids? Because I tell you, you can't miss a single day."

Profit Sharing. The LFT establishes that all salaried employees are entitled to participate in the profit made by the company and to receive, in proportional allocation, 10% of the annual profits (Art. 87). However, the company has declared only 10% of the profit declared in the corporate statement to the Tax Administration, with which it has probably committed tax fraud.

## V GOVERNMENT INTERVENTION

In Mexico employer protection contracts have government complicity, as observed in the Local Conciliation and Arbitration Board (JLCyA) where corruption and outright complicity with corporate employers and corporate unions prevails, most notably with the protection ones. Such is the case of workers of Atento: when they demanded, based on section 187 of the STRM, to be bargaining agent of the collective agreement, they had to face the open complicity of the Board siding with the company and the employer protection union. In 2010-2011 there were three attempts of recount that had to be challenged by *Telefonistas* given its numerous irregularities: the Board allowed the implementation of rigged pattern through which trusted employees voted, which is not allowed; they allowed the company to send hundreds of voters who were not entitled to vote to the voting station several hours in advance; they only admitted the entry of one legal union representative into the voting station although there were at least eight voting tables; their right to challenge irregularities was limited; and no observers were allowed in the voting tables. At the time of voting, groups of paid thugs hired by the company at all times intimidated freedom of choice and induced voting in favor of the employer union.

In October 2011 a second recount was attempted in which the Board tolerated efforts to prevent the entry of Atento workers through the use of thugs at the service of the company, but when the situation got out of control, they hurriedly announced the suspension of the recount allegedly due to lack of guarantees. A few days later, the Board hastily convened another recount, which it notified to the STRM just a few hours in advance without allowing access to the file or revision of the electoral roll of eligible voters. In addition, the doors of the Board were guarded by police with ammunition and weapons, which remained there until the closing hour.

The company did not authorize workers to go to vote except for those to whom it had granted permission with secured wages in exchange for their vote in favor of the protection union.

The result of these recounts is obvious: The company and its employers union,

with the support of the labor authority of the Federal District, determined that the protection union allegedly has the majority support of workers expressed in the vote and therefore continues to be parties of the current Collective Labor Agreement. In any case the recount has been legally challenged once again and we are sure it will be repeated given the grave irregularities reported.

## **VI EXPERIENCE OF THE TECMARKETING CALL CENTER**

All the above is in stark contrast with the experience of workers of the Tecmarketing call center that now belongs to América Móvil. They had a similar experience as of 1999 when they approached *Telefonistas* for support to fight to improve their wages and working conditions. At that time they were also subjected to a collective employer protection contract.

That year turnover rates were between 60% and 70%, health and security conditions were extremely deficient, wages were very low, elements that came together and translated into huge instability at work. The struggle was tough, there was even confrontation with the employer protection union, but eventually the firm conviction of workers and the solidarity of telephone operators prevailed and a new collective agreement was signed in February 1999 between Tecmarketing and STRM section 159.

It's been 13 years and things have changed and improved substantially. Once workers were able to form and join a union, elect their representatives directly and bargain their wages and working conditions, the turnover has almost disappeared, working conditions have changed and improved radically, there are mixed committees (company-union) for training, health and safety, and productivity issues. Wages and other social benefits are negotiated annually and workers are consulted continually and democratically. However, it has not been easy because in 2008, after democratic consultation among workers, it was necessary to strike for a week for the company to agree to negotiate union proposals presented in the revision of the collective agreement.

This struggle and this experience has allowed Tecmarketing workers, organized under Section 159 of *Telefonistas*, to have the best working conditions and highest wages of all call centers in Mexico, and to be one of the best worldwide. And contrary to any doomsday forecast, this call center is the most competitive and productive in the Mexican market. It proves that practicing democratic unionism for the benefit of workers and their labor and union rights does not conflict at all with

the development and growth of a company, instead it makes the company stronger. This experience has been motivating and inspiring, and it is a clear example for the workers of Atento telling them: Yes we can!

## **CONCLUSION**

Despite all odds, the STRM continues fostering a strategy to create a real union at the service of Atento workers for the respect for their labor and union rights. *Telefonistas* maintains an ongoing campaign for membership of workers to the STRM despite employer retaliations. Only then will they be able to democratically elect their representatives and truly defend, among others, ILO international conventions on freedom of association and collective bargaining.

A campaign of national and international solidarity has been deployed and continues through the ITUC, the TUCA and UNI. A complaint was filed on December 16, 2011 to the ILO and similar complaints will be submitted to other international organizations.

Through UNI, Telefónica is required to comply with the Code of Conduct that, in the case of Mexico and many other countries, has only been dead letter and demagoguery of the executives in Spain who apologize stating that if they acted otherwise they would be violating Mexican law.

One thing is clear: the system of collective employer protection contracts is useful for Atento and they are not willing to compromise or change the rules of the game.

This struggle clashes upfront with the system of employer protection contracts, which are the pillar of government and corporate control over Mexican workers for the benefit of employers.

With the support of national and international unionism we, Mexican workers, shall have the final say. The struggle continues!

**February 2012**



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# NICARAGUA

■ **CST** Central Sandinista de Trabajadores

## TRADE UNION SELF-REFORM IN NICARAGUA<sup>4</sup>

**Roberto Gonzalez** Secretary General, Published by WGSR, 2011

One of the most important current aspects of the Nicaraguan government is the process of tripartite social dialogue addressing the global financial crisis and its impact on Nicaragua that has affected nearly 30,000 jobs, leading to loss of membership and the weakening of the benefits of collective agreements.

The CST and other national centrals are playing a role in the new historical circumstances, adopting a nationwide vision, with a responsible and prudent approach, which has helped prevent further loss of jobs, protect existing jobs, exercise workers labor and social rights, reach agreements on the emergency salary, and give the country greater stability.

These agreements were: the Tripartite Labor Agreement of Duty Free Areas, the National Agreement on the Minimum Salary, and the Agreement on Labor Stability in the Sugar Industry.

Progress has been made towards the approval of a parliamentary agenda relating to several laws: on the defense and protection of labor rights acquired in NAFTA, on labor inspection, on the creation of the National Labor Council, on the instituting of labor attorneys, and on Health and Safety in the workplace and its respective company-specific mixed commissions.

The following bills are also being promoted: on the creation of the National Labor Court of Appeals, on the regulation of outsourced subcontracted companies, on the reform the Law on Social Security, on the creation of the Labor Procedural Code for oral trials, on the reform of the Law on the Minimum Salary, and on the creation of the Institute for the Development of Unionism.

This has been possible because, since 2006, there has also been a clear upward

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<sup>4</sup> This document is a revised version of the presentation made by the author during the III meeting of the WGSR (Lima, October 2010).

spiral of union expansion after the contraction caused by 16 years of repression of *Sandinista* unionism:

- 35 trade unions and 5 federations generations have registered.
- 368 Boards have been updated, with an upward trend (54 in 2006, 89 in 2007, 96 in 2008, and 127 in 2009), with increasing participation of workers: from 3,762 to 8,897.
- 53 union restructurings, also with an upward trend: from 5 in 2006, to 16 in 2008, with the participation of workers rising from 169 to 546.
- 72 petitions, increasing from 9 to 21, with benefits for 23,826 and the support of 36% of signers (8,542).
- Counseling for 65 bargaining collective agreements.

Although there is evidence of underreporting in the agencies of the Ministry of Labor, and the challenging access to sources of comparison and verification, these data confirm a process of positive renewal with active participation of members that is generating organizational changes.

To the above we can also add the positive element relating to the existence of three union fronts, some organic and others in unity of action: FNT, CPT and CSN that have been facilitating efforts of union orchestration. More recently, the creation of a Trade Union Liaison Committee with ILO has helped define a minimum agenda. Nonetheless, the scenario of union atomization and division in Nicaragua - with the presence of 18 centrals and confederations - is still cause for concern.

Consequently, pointing out the need for trade union self-reform, seen as a new version of unionism, is in the interests of the CST by transforming the flaws that have contaminated the union movement with corruption, arrogance, authoritarianism, verticality and sectarianism.

Our own union autonomy and identity is missing: unfortunately unionism has been used as a *modus operandi* or *modus vivendi* and divided by the interests of groups or *caciques* (local political bosses).

We need to promote a culture of greater openness, tolerance, transparency, mutual recognition, consensus-building, respect for dissent, majorities and minorities, and the advancement of inclusion and not exclusion. In short, we need to put class interests above and beyond any group interest or individual leadership.

We need to strengthen the line of union organization by territory and by sector of the economy, building unions by sector of activity because, to date, the legal

framework has stipulated company-specific unions and collective agreements as a result of the strategy labor flexibility imposed by neoliberal governments in their reforms to the labor codes.

It is also necessary to set priorities based on the prospects for greater growth of economic and emerging sectors in the national economy.

We reaffirm that our union ethics indicate the need to grow in non-unionized sectors, breaking the practices of union cannibalism and piracy where forms of labor organization are already in place.

### **Two examples of progress in terms of self-reform of the CST:**

- The identity and institutional recognition of the Secretariat for Women and the Secretariat of Youth Workers has been strengthened through a statutory amendment establishing them as National Councils.
- In respect of migration and Nicaraguans in Costa Rica, the CST has set up a legal assistance program and signed a protocol with the *Universidad Paulo Freire* to establish a university branch in Costa Rica for their labor training. The CST will also present a draft Central American agreement to protect migrants' rights to PARLACEN, the Central American Integration System (SICA) and the Central American Court of Justice.

The CST is an organization that represents Nicaraguan workers based on a stance of boosting socio-political and class-based unionism, with autonomy and its own space, in a framework of trade union unity and of taking power in order to change the neoliberal capitalist model for a new alternative social model based on the principles of Christian and Socialist Solidarity Revolution.



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# PANAMA

## CONVERGENCIA SINDICAL

■ **CTRP** Confederación de Trabajadores de la República Panameña

### OVERVIEW OF THE PANAMANIAN LABOR MOVEMENT

Carlos Ayala Montero<sup>5</sup>, Published by WGSR, 2011

This is a paper describes the initiative of the TUCA to map the labor unions of America and contribute data that are more adjusted to the current situation of the movement of organized Panamanian workers.

No doubt the extreme haste with which we have prepared this paper and the current situation of the labor movement, not only in Panama City but across the nation, which is changing (for better or worse), are far from being the definitive scenario allowing some degree of certainty about the most stable features of Panamanian society and, of course, of the popular and labor movement. I sincerely believe that - historically-speaking - our society is changing, but the direction is not yet clear: projections from the historical perspective suggest that we can attain better socioeconomic conditions, but there is no consensus clearly establishing the course to be followed, and such consensus should certainly include the labor movement as inevitable social actor. Hence, it is important to know what the Panamanian labor movement is, how it works and what it does.

### I EVOLUTION OF THE UNION STRUGGLE

Jorge Turner has divided the history of Panama labor movement into 6 stages as follows:

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**Origin (1855-1903).** This period includes the concentration of workers in enclaves of development, labor immigration, discrimination (of nationals and foreigners). The first mutual organizations are created.

**The Quasi-Protectorate (1903-1925).** The commercial oligarchy and partners with foreign capital appear on the scenario, mainly from the US, and the first worker organizations are created.

**The Great Struggles (1925-1932).** In which we underscore work of the *Sindicato General de Trabajadores* and the founding of the *Federación Sindical de Obreros y Campesinos de la República*. The struggles of 1925 and 1932 that were repressed by the US military. The founding of the Communist Party in 1930 that was linked to the labor movement and directed a part of it.

**Legal Unionism (1936-1956).** According to Cesar De León, between 1941 and 1946 the boom of democratic freedoms in the Isthmus resulted in the founding of the *Federación Sindical y el Magisterio Panameño Unido* (DE LEON: 1977; 23).

In 1946 some basic labor rights such as freedom of association and strike, maternity protection, etc. were given constitutional rank. The first Labor Code was adopted in 1947 and that same year popular pressure – with the participation of labor unions – rejected the intended extension Treaty of to expand US military bases in Panama (Filos-Hynes).

In 1945 the *Federación Sindical de Trabajadores de la República de Panamá* (FSTRP) of Communist orientation was founded and it joined the *Confederación de Trabajadores de América Latina* (CTAL) and later the World Federation of Trade Unions (WFTU).

In 1956 the *Confederación de Trabajadores de la República de Panamá* was created and organized unions vertically i.e. by sector of activity or federation, as a non-Marxist option promoted by the International Confederation of Free Trade Unions (ICFTU).

But as of 1953 a period of persecution was unleashed against the left and the labor movement was forced into a temporary withdrawal.

**Boom of Laborers and Smallholder Farmers (campesinos) (1958-1972).** Smallholder farmers take certain lands in the countryside. In 1959 there was even an

armed uprising in Cerro Tute, against the capitalist system.<sup>6</sup>

In 1958 the *Sindicato de Tipógrafos* held a successful strike for higher wages. Also in 1959 the hunger march from Columbus to Panama City where 2,000 unemployed workers marched under the banner of the *Unión Sindical de Trabajadores de Oficios Mixtos* for the minimum wage to be established and for leasing fees to be lowered, as well as the creation of new jobs.

In 1960 the *Sindicato de Bananeros de Bocas del Toro* (clandestine) called a strike for higher wages, which was joined by the peaceful union of Chiriquí, causing the paralysis of more than 15,000 workers and interrupting almost 100% of production. The strike was repressed and its leader, Rodolfo Aguilar Delgado, was murdered.

In 1965 sugarcane workers of Aguadulce also organized a march onto Panama City demanding wage increases and thousands of workers participated to show their solidarity.

In 1967 the *Central Istmeña de Trabajadores Cristianos* (CIT) was created; its predecessor was the *Federación Istmeña de Trabajadores* sponsored by the Latin American Central of Workers (CLAT) and the World Confederation of Labor (WCL) which merged into the *Central General Autónoma de Panamá* (CGTP) in the 90s.

Quantitative Growth (1972-1981). As of the new Constitution and the Labor Code in 1971, a period of unprecedented growth of the union movement began. The International Financial Center was created and the service function of the Panamanian economy was consolidated.

Most of the trade union movement and under the coordination and representation created in the Labor Code (Article 1066), called Consejo Nacional de Trabajadores Organizados (CONATO) postponed some demands to capital and government in order to strengthen the struggle led by General Omar Torrijos to regain full sovereignty of the Panama Canal. "From 1972 to 1976 the labor movement grew, but there were no strikes. The strikes began in 1977 after the enactment of anti-union Law 95." (Turner: 1978). It is a time of 'light' control of the labor movement which, however, was not absolutely docile as proven by the defection of some minor organizations from the point of view of their influence among the workers.

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6 A group of young people, inspired by the actions of Fidel Castro in Cuba, attempts to create a guerrilla enclave in the east of the country and failed, causing the death of many, including their leader, Polidoro Pinzón.

In 1970 the *Central Nacional de Trabajadores de Panamá* (STP) was created in an attempt to replace the FSTRP, organizing unions by sector of economic activity, but under Marxist or classist orientation. The CPTT (*Central Panameña de Trabajadores del Transporte*) also emerged, which brought together bus and taxi owners and workers.

The CNTP started to guide the labor movement bringing together major unions, like the banana union, and for some time shared the leadership with the CTRP of most of the organized labor movement in our country.

After 1981 the Panamanian labor movement covered important paths that can easily be divided into at least two additional stages:

Reactivation and Fight (1981-1994). As of 1981, after two amendments to the Labor Code and the signing of the Torrijos-Carter Treaties in 1977 that dismantled the US colonial enclave in the Panama Canal, the union movement held a wave of protests against the amendments and for unfulfilled claims in economic matters and civil liberties.

In 1981 the execution of the Structural Adjustment Programs (SAPs) was undertaken as instructed by the International Financial Institutions (IFIs) for the country to attain creditworthiness. Among these structural adjustments they called for the flexibilization of labor laws and the reduction of the State payroll.

Between 1972 and 1981, 53 of the 69 conventions of the International Labour Organization (ILO) were ratified (that the country had already ratified), but as of 1981 the approval of such conventions slowed down. According to Dr. Rolando Murgas the wave of flexibilization began in 1975 with the approval of Law 95 of 1975 (Murgas, in Bronstein: 2007).

During this period the *Central Panameña de Trabajadores del Transporte* (CATI) was created as an offshoot of the CIT.

In 1985 the *Federación Nacional de Asociaciones de Servidores Públicos* (FENASEP) was created with a union profile although the constitution and the law does not allow unions in the public sector, but since its origin was linked to the labor movement, unlike other historically strong unions of the public sector<sup>7</sup>, such as teachers and medical doctors that preferred to partner with conservative political organizations and distanced themselves from the labor movement and the FENASEP.

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7 Both the Labor Code of 1947 and of 1971 excluded workers employed by the State from their scope.

In 1986 a general strike was called by CONATO to confront the proposed amendments to the labor legislation that was passed anyway (Law 1 of 1986) and which reduced the rights of agricultural workers, home workers and workers of small enterprises. A new proposal for the labor legislation was submitted during this period (MURGAS: Op) aiming at the reduction of labor protection. In general it was a period of turmoil and struggle of the labor movement.

The popular movement and the union movement in particular, were divided by the dilemma of supporting the defense of national sovereignty under the command of the military that trampled human rights, after the death of Omar Torrijos in 1981, or confronting the oppressive government and be disconnected from the nationalist struggle. This dilemma was resolved with the US military invasion of 1989, which put an end to military rule and established the beginning of the full exercise of neoliberal concepts.

Confronting Neoliberalism and Survival (1994-2009). After the U.S. military invasion of 1989, new trade unions emerged which, in general, sought to deny existing ones.

Thus, in 1993 the *Confederación General de Trabajadores* (CGT) was created. The *Central General Autónoma de Trabajadores de Panamá* (CGTP) was also created in 1993 as offshoot of the *Central Istmeña de Trabajadores* (CIT); *Convergencia Sindical* also emerged in 1995 as separation from the *Confederación de Trabajadores de la República de Panamá* (CTRP), and that same year the *Confederación de Unidad Sindical Independiente* (CONUSI) was organized and replaced the CATI.

During this period, and fortunately for a short period of time, the partisan-political linkage of Panamanian unionism promoted intra-union persecution, even to the extreme of attempting to ignore – using the law - the condition of union leaders of those who were politically adverse.

As is evident, the atomization of the labor movement is, so to speak and judging by the historical events described, an offspring of the neoliberalism prevailing in the country since 1990.

This last phase of union development is characterized by an unusual boom of neoliberal measures that shake the very foundations of the Panamanian labor movement.

In 1995 the most sweeping neoliberal reform of the Labor Code, through Law

44, was enacted in the midst of a general strike of the entire labor movement (although before it had divided into those who had decided to tackle the reform as a whole and those who felt it was better to bargain to secure some gains).

The 1995 reform promoted the reduction of the cost of layoffs, made their cost quantifiable, something that was impossible before due to the formulas of payment of unearned wages during the period of the judicial proceedings of the layoffs, in force in the Labor Code since 1971.

Conditions were also created to reduce labor stability to a minimum and short-term contracts were promoted, as well as labor mobility; the economic reasons for dismissal were expanded, as well as the exclusion of insurance brokers and groups of sellers and collectors from the sphere of labor legislation.

Rolando Murgas underscores some positive aspects of the reform of 95, such as: restrictions to the accumulation of vacations; extension of maternity leave and leave for medical disability; restrictions to temporary contracts; constraints to the probation period; immunity of vacations; elimination of time as condition to access seniority premiums; reduction of the number of workers required to organize a union; legal permission to lucrative trade union activities; elimination of legal limits to repetition in union leadership; expansion of legal rights to bargain; and creation of arbitration courts, amongst others.

At a later date, rules and regulations were established for special economic zones where rights in effect in the Labor Code were also reduced, such as the cost of overtime; legal dispensation to not bargain a collective agreement during the first year of work, etc.

After the total liberation of the former Canal Zone and the Panama Canal itself in 1999, the criterion of opening the Panamanian economy to the international market gained momentum. With this criterion, between 1994 and 1998, some companies and State services, such as electricity, communications, games of chance and ports, among others, were privatized. Panama joined the World Trade Organization in 1997, vowing to abide by the rules of the market, lowering import tariffs, the Office of Price Regulation was eliminated and the Authority of Free Competition and Consumer Affairs was created which addresses the first part of its name more than it does to the second part, etc.

Furthermore, with the restitution of the Canal to Panamanian sovereignty, workers of that company joined the Panamanian labor movement as of the year 2000

and, although they are public servants, their organic law allows them to maintain the unions already existing before the restitution to Panamanian sovereignty.<sup>8</sup>

As of the year 2000 the country engaged in bilateral negotiations with different countries leading to the NAFTA without labor protection rules<sup>9</sup> except for the FTA with the United States that includes a labor chapter mostly imposed by US unions.

The Unión General de Trabajadores (UGT) was created in 2001 as separation from the CTRP.

The closing or downsizing of enterprises, the emergence of new forms of contracts and labor relations sidestepping existing labor legislation, in addition to the flexibilization of labor standards, resulted in smaller trade unions, less members and less income from dues, weakening unions to the point that many existed only on paper or had less members than what was required by the Labor Code (40 members), but they still survived because they did not report these changes to the Ministry of Labor.<sup>10</sup>

Tasks that the labor movement did not address before, such as job training and certification of skills, were part of the new agenda. However, a more radicalized sector found support at the grassroots level, especially in construction, to refuse all measures coming from governments with neoliberal policies and to confront them with constant mobilizations, and not with bargaining or dialogue.

In 2006, in a different line of action, the *Central Unitaria de Trabajadores* (CUT) was created that is not another separation from the existing labor movement, but the sum of three existing centrals: CNTP, FENASEP and Convergencia Sindical. The FSTRP and CTRP<sup>11</sup> participated in the prior discussions, but in the end did not attend the foundational congress.

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8 Some have joined existing centrals but most are still linked to the US labor movement, through the AFL-CIO.

9 FTAs have been signed with Singapore, Taiwan, Chile, El Salvador, Dominican Republic, Nicaragua, Guatemala, Honduras, Mexico, Colombia and the United States.

10 According to Article 392 of the Labor Code, the reduction of members to less than 40 workers for over a year is grounds for loss of legal status of the labor union.

11 The CUT project began in 1999 with the Declarative and Programmatic Congress, but their activities began in early 2005, culminating in the Foundational Congress in 2006. CTRP and FSTRP participated in the initial Congress, but not in the Foundational Congress. Conversely, FENASEP did not participate in the first but joined the second. The CUT has legal status since 2006.

These organizations attempted to unify criteria on the management and objectives of their structures, establishing coordination and unity of action which eventually required their physical merging. *"We do not intend to impose our ideas, but to discuss them in an atmosphere of respect and sincerity, limiting ourselves to historical facts, statistical data and actual results of an exogenous model that has only brought poverty and hardship to our citizens,"* state the fundamental documents of this union.

In 2007, two separations occur in the Centrals: *Casa Sindical* that separates from *Convergencia Sindical*, and the *Federación Auténtica de Trabajadores (FAT)* that separates from CONUSI. *Casa Sindical* has kept an alliance with the rest of the labor movement while maintaining and ensuring its structural identity. The FAT currently operates nationwide, including some unions that have also separated from their original Centrals and Federations.

## II THE NATION AT PRESENT

Panama is a country with 3.3 million inhabitants<sup>12</sup> and a per capita income of nine thousand balboas a year, income that experienced an unprecedented growth from 2004 to 2009. Per capita income in 2007, for example, was \$ 6,854.00. Our economy grew in that period at an average of 7.5% annually, reaching 12% in 2008.

The human development index of Panama, as registered by UNDP, was 0.804 in 2007, and we were No. 56 in the world, all of which seem figures that improve the socio-economic status of our country.

After the neoliberal onslaught of the nineties, the membership of the Panamanian labor movement declined somewhat. Most leaders share the view that the downsizing of companies, the new ways of organizing production, such as outsourcing, home work, etc., as well as the atomization of the movement, are the causes of these results. By 2000, when neoliberal measures were at their peak, the labor movement was almost paralyzed. Some said that their work was nothing more than discussing with employers how many jobs should or should not disappear, etc.

Nonetheless it is worth analyzing the economic situation of our country because we grew immensely and intensely during the last five years, because we are still the second worst form of wealth distribution in Latin America, and because it is necessary to consider some data to learn about their impact on the labor movement.

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12 Although the last census conducted in May this year raised many doubts about the technical capabilities of the Comptroller General and the objectivity of the results.

In 2001, 985,000 were employed<sup>13</sup>, and unemployment was 14.7%. In 2003, 1,080,000 were employed and the unemployment rate was 13.4%. In 2007, 1.357 million were employed and the unemployment rate dropped to 6.4%. In 2008 1,422,000 were employed and unemployment continued to decline reaching, according to these data, 6% in 2008.

In 2003, there were 316,000 workers in the commercial and financial sector, i.e. the tertiary sector of the economy, but in 2008 that figure rocketed to 896,000 workers, meaning that the generation of new jobs was concentrated in this sector.

Between 2005 and 2010, 72,000 business registrations were recorded, employing some 279,000 workers -according to official figures<sup>14</sup> - but in that same period about 30,000 registrations or commercial licenses were cancelled. According to these data, the positive impact on employment in the last five years is not reflected in what the businesses declare in their payroll of employees because obviously the cancellations reduced the number of jobs. This leads to the conclusion that growth, according to the official report of registration of new businesses, averaged less than 40,000 per year during this period, which accounts for approximately 2.5% if we subtract the worker death rate, average retirements and voluntary or compulsory defections.

In fact what grew was the so-called informal work, i.e. workers without protection or social security. According to the ILO statement, in 2007 nine of every ten new jobs in Latin America were generated in the informal sector. In Panama, these calculations indicated 7 of every 10 new jobs.

The de-concentration of the production process, their downsizing in the interests of greater profit and the emergence of new forms of organizing production, all due to technological advances, coupled with labor and neoliberal reform, led Panamanian employment to unprecedented precariousness in which, although we are seen as one of the highest levels of income in Latin America, the purchasing power of workers decreased about 25 to 30% in the last five years. Inflationary speculation allowed merchants to increase their income sevenfold between 2004 and 2009<sup>15</sup> because, using the excuse of the rise in oil prices, all the prices of goods

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13 Figures from the Ministry of Economy and Finance, Household Survey as the Comptroller General of the Republic.

14 Data from the Ministry of Commerce and Industry.

15 According to Panamanian economist John Jované.

and services increased; but when oil prices declined, the price of goods and services never returned to their original level; they waited for further rises to increase their prices again, and so on.

This speculation developed to the detriment of the purchasing power of workers due to the absence of a wage protection policy and the inexistence of consumer protection (except for the occasional media campaign).

The expansion of the Panama Canal raised the need to ensure that the greatest number of hired labor be Panamanian. But as the adequate (or at least not certified) technical qualifications were not found, a process of training and certification of Panamanian workers was undertaken, which also extended to other aspects of the economy, such as the hospitality industry, construction, telecommunications, etc. If we add Panama's international prestige based on an aggressive campaign to present the country as a haven for financial organizations and rating agencies; and let us not mention the international campaign to foster tourism in the country, it is clear that the result is a reduction of unemployment which, however, is immigrant workers - mainly from Colombia and Dominican Republic - also take advantage of.

Regarding the electoral political discussion, 2004 was quite different from 2009: in the former the country was in a very difficult economic situation, typical of Latin America, with recent enforcement of the most drastic neoliberal measures, such as privatization of state-owned companies and services, etc. In that period, the change of government was due to the pursuit of better economic conditions for the country. The central slogan of candidate Martín Torrijos, was "more jobs, more security and zero corruption", which eventually led him to the presidency, establishing a government of technocrats who made the country progress economically but did not strengthen social development measures, except for actions that seemed to be of a "humanitarian" and charitable nature rather than long-term State policies which, in fact, the new government of Ricardo Martinelli has paralyzed.

The 2009 elections brought Martinelli to power, a multimillionaire employer who made his fortune squashing workers and imposing his will at any expense. In one year all that his government did was distribute State monies through student grants, social bonds, capricious salary increases (for the public and private sectors), etc. From the beginning he spurned dialogue and consultation with organized society, including employers, whom he considers his competition, and of course the labor movement which he confronted from the get-go through the attorney of his companies whom he appointed Minister of Labor. The result was the adoption of Law 30

dated June 16, 2010, whereby, among others, aspects of the Labor Code dealing with union activity were reformed in a manner – of course - unfavorable to union efforts.

### III UNION REALITY

As expected, we found the same resistance to this research as before: in the formal sector for “fear” of how the data would be used (actually there are no reliable data at the Ministry of Labor) and because it is so difficult to approach unions for information: we need to rely on the trust gained during the social struggle to obtain some data.

In recent years the experience of the international labor movement has been of great help to the Panamanian labor movement. The path towards unity undertaken by the ITUC and the TUCA, whose Foundational Congress was held in Panama City in 2008, has increased confidence of the union leaders in the unitary process that has been fostered for some time now.

The response of Panamanian unionism to the onslaught of neoliberalism was to seek opportunities for dialogue, strategy that allowed it to readjust its actions to the surrounding reality. Today for example, the discussion on the best working conditions, more often than not, is held outside companies, in the face of the ruling authorities, without neglecting socio-labor interaction with employers.

Perhaps it is due to this attitude that there are more collective agreements bargained directly between employers and unions in comparison with those bargained with the assistance of the Ministry of Labor. The truth is that – after the military invasion of 1989 and the accession of savage capitalism in our country - the labor movement has been participating more and more in dialogue committees as social interlocutor.

The coordination of the union movement has improved. No new central has been created for almost three years now; the CUT has continued its work albeit with a low profile, always with clarity of purpose and soon will hold its second congress. Training and promotional activities from outside unionism, such as from the *Universidad Especializada de las Américas* (UDELAS) and from the Ebert Foundation, among others, in addition to the programs funded by solidary unions, such as the metalworkers of Belgium, have enabled approaches and understandings that were previously unthinkable.

At present, for the first time all existing union centrals have acted together to

face the onslaught of government authorities that thought the union movement could be easily dismantled, but the response have been the largest trade union and popular demonstrations of the past 10 years in rejection of the anti-union attitude of the Martinelli government.

National and international training of middle and senior cadres has also played a major role in forging the unity that Panamanian unionism. This unity is still poor in quantitative terms, but has a great capacity to fight as proven in recent months.

#### IV UNION FIGURES

According to data of the Ministry of Labor and Workforce Development (MITRADEL), there are 12 centrals, 65 federations and 686 unions (in actual fact 377).<sup>16</sup>

Our research with some centrals, national unions and some MITRADEL records indicates that of the 377 unions described, 84 are employers, including 74 transport carriers, leaving a total of 293 active unions.

Considering the type of union<sup>17</sup>, they are grouped as follows: 76 company-specific unions, 116 industrial unions, 97 professional associations, and 4 mixed unions.

The *Consejo Nacional de Trabajadores Organizados* (CONATO), a coordination structure of the union movement, now comprises 9 of the 12 existing union centrals: CTRP, CGTP, *Convergencia Sindical*, STP, CGT, UGT, Casa Sindical, FENASEP and FSTRP. It is not a structure of Panamanian unionism, but only a coordination body.

CONUSI and FAT are outside the CONATO. The CUT is not part of the CONATO because its three member organizations are already part of it.

CONATO groups about 70% of unions registered at the MITRADEL. Of the 65 federations, 44 are part of the member organizations of CONATO.

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<sup>16</sup> According to MITRADEL, 309 unions are considered inactive because they have not reported any activity in the last 5 years.

<sup>17</sup> According to the Labor Code, there are 4 kinds of labor unions: Company-specific labor union brings together workers of a single company, Union by sector of activity: brings together workers from different companies in the same sector or economic activity; Professional Association: brings together of workers from equal professions or trades in one or several companies, even if these exercise the same economic activity; and Mixed Union: brings together workers from different professions or trades in various companies, provided the number of workers of the same association is less than fifty in a region.

Centrals and federations participating in the CONATO are present in all the sectors of economic activity, covering about 25% of workers in the service sector, 17% from the industrial sector and 15% of public employees.

As for the number of unionized workers, it is difficult to provide accurate figures. In recent years the general trend has been downsizing and outsourcing some services but, at the same time, there construction, the hospitality sector and the tourism sector are flourishing. Some transnational companies also have come to the country seeking its flexible tax legislation, political stability, etc. and, of course, because our country is a distribution center with the Panama Canal and is geographically positioned as meeting and distribution point.

The government and unions specify an estimated union density of about 13%, in relation to the total working population, excluding schools, professional associations, teachers and medical doctors. In numbers, union membership could be close to 190,000 workers.

A problem to be solved in these measurements is that they usually include non-unionized workers benefiting from the conventions because by using the payroll for deduction of dues that comprises this group.

**Lastly, we present data of some union centrals that were provided to us for this paper:**

- **CONUSI.** It consists of three federations and about 30 unions. In 2003 it grouped 39% of CONATO affiliates. There are no updated figures on its importance in terms of union membership but the powerful SUNTRACS (*Sindicato Único Nacional de Trabajadores de la Construcción y Similares*) is part of it and gathers about 70% of unionized construction workers. Consequently, union activity in the country must necessarily include this organization because of its numbers and also because it has a very high share of union militancy, to the extent that it has recently acted as platform to foster the idea of an electoral political proposal by workers.
- **CTRP.** It consists of 8 federations and 45 unions; it is present in all economic activities. According to statistics of 2003, it was the largest central in terms of number of members, but its leaders acknowledge they have suffered losses due to the closure of businesses and the merger of some unions. Eight new unions joined in the last five years, which has contributed a significant number of members.
- **Convergencia Sindical.** It is structured with 3 federations and 26 unions and is present in the manufacturing industry, agriculture and education sectors.

- **CNTP.** It has 2 national federations and 16 unions, 7 of which are national. It is present in industry activities: food, telecommunications, education, Panama Canal, artists, among others. Its leadership states that their presence has grown in construction and tourism, in addition to telecommunications.
- **FENASEP.** It is the only union organization structured in more than one State institution. 20 associations of public servants participate in it. In recent years its membership declined because of government repression which increased as of the Martinelli administration to the extent that 30,000 public employees have been laid off, including several union leaders and the ideological-political defection of some leaders or organizations.

The attitude of the current State administration towards trade unions has materialized practices of elimination, reduction or obliviousness about freedom of association, such as refusing to grant legal status to new unions, suspension of training grants and economic interference in the internal affairs of unions via illegal regulations, etc. forcing unions to confront this situation with lawsuits and protests on the streets.

**Regarding unionism, two positive elements need to be underscored:**

- The creation of the CUT in terms of its efforts towards unity and because it includes about 30% of unionized workers represented in the CONATO. Its work has led to unity of action of the union movement and played an important role in the formation of union cadres in recent years, both nationally and internationally. It has made important contributions to the discussion of the socio-political agenda of workers, based on the mandate established in its statutes.
- The increased presence of the TUCA in Panama, bringing together the CTRP and *Convergencia Sindical* (originated in ORIT) and the CGTP (originated in the CLAT) as affiliates, which has helped them get closer under two current topics: unity and transformation of the labor movement from within.

Such is the scenario of the Panamanian union movement at present.

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# PANAMA

■ **SUNTRACS** Sindicato Único Nacional de Trabajadores de la Construcción y Similares

## HISTORY AND CURRENT INFORMATION ON SUNTRACS

**Saúl Méndez** Secretary General, Published by WGSR, 2012

**O**n September 10, 1972 groups of carpenters and construction workers founded the SUNTRACS and its first Secretary General was brother José Rayo.

The SUNTRACS has a track record of struggle and sacrifice in defense of the interests of the working class. Those were difficult times: the vast majority of construction workers were unprotected, paid starvation wages, often had no social security, no health and safety at work, and were forced to work long and strenuous hours.

Whoever decided to work in construction did so as the only opportunity to maintain their family, albeit precariously. In Panama this sort of work was considered unworthy, and construction workers were victims of all forms of discrimination and condemned to live their last days in destitution.

With the creation of the Union in 1974 the first Collective Labor Agreement was reached with the Panamanian Chamber of Construction (CAPAC). Workers in CAPAC member companies began to receive more benefits and their working conditions improved. But the struggle was just beginning.

As of that year, agreements were signed every four years and each one improving wages, safety and other working conditions.

Construction worker Yito Barrantes becomes the first martyr of SUNTRACS: he was murdered by units of the Armed Forces in 1987 after a demonstration against adjustment policies.

In the late 80s SUNTRACS fell into the hands of a corrupt group linked to the military in power and to their political arm, the PRD. In those years this spurious leadership reached agreements to cut wages, slacken working conditions, whereby the union virtually becomes bankrupt because of the theft of its funds and much of its property, some of which were seized by the courts.

The *Movimiento Democratizador* (MODES) of the SUNTRACS emerged in that period with brother Genaro López at its head and opposing pseudo-leadership, challenging the persecution and repression of the military.

After the devastating yankee invasion of December 20, 1989, which left hundreds of dead, the struggle to establish authentic leadership of the workers union - represented in the MODES - begins.

With the broad support of construction workers, brother Genaro López is appointed Secretary General of the SUNTRACS. Like a phoenix the SUNTRACS rises from the ashes. And the bankrupt union becomes one of the largest and most militant organizations of the labor movement in Panama.

In conjunction with the dynamism of the construction sector, the Union continues reaching collective labor agreements with CAPAC. Each of them step-by-step providing wage increases, new classifications, better working conditions.

But this Union's activity was not limited only to the construction industry. In those years, members of the former MODES, fostered the need for a class-based Panamanian labor movement given that the vast majority of unions, grouped into the *Consejo Nacional de Trabajadores Organizados* (CONATO), are led by a corrupt, conciliatory union bureaucracy, always willing to compromise with employers.

The SUNTRACS understands its struggles cannot be separated from the struggles of the Panamanian people. It participates decisively in major demonstrations of the Panamanian popular movement and strives to forge the unity of truly honest and class-based sectors of the union movement.

It participates in several efforts made in the post-invasion years to resist the yankee invader and the neoliberal policies of successive governments. Among the coordination efforts of the popular forces, we underscore spaces such as the *Coordinadora por la Vida*, the *Jornada Nacionalista Democrática* (JND), the *Coordinadora de Unidad Sindical y Popular* (COUSIPOP), *Organizaciones Contra las Bases Militares* (OCBAM), *Alternativa Patriótica Popular* (APP) and the *Movimiento por la Defensa de la Soberanía* (MONADESO).

In 1995 the PRD Government of Ernesto Pérez Balladares presented a reform package for the Labor Code, which was strongly rejected by some 49 organizations which succeeded in creating a coordinating commission to confront such labor flexibilization measures.

A national strike and large popular mobilizations were held to reject the reforms. Four Panamanians are killed on this day of action, among them construction worker Rufino Frías. Hundreds were injured and arrested.

The reforms are imposed by fire and sword, with the complicity of most of the leadership of CONATO in collusion with the ruling party, the PRD, just like during the military regime. But all this strengthened the class-based current of the labor movement and three years later, in 1998, the *Confederación Nacional de Unidad Sindical Independiente* (CONUSI) was founded as a true parameter of combative and independent unions.

Meanwhile, the SUNTRACS continued to develop and became stronger. It succeeded in affiliating thousands of workers who demanded companies to sign the CAPAC-SUNTRACS Agreement, a victory that continues to represent better conditions for workers thanks to their constant struggle, including strikes. The SUNTRACS established democratic mechanisms for consultation and participation; it strengthened its structures, the Board was supported by worker representatives who created the National Council. Councils by provinces were created. The General Assembly is the highest governing body that elects the Board.

It promoted strong campaigns on health and safety at work. It carried out ongoing union and vocational training activities for members. Its finances were strengthened with the 2% received from union dues. Locations were set up in all the provinces with equipment, vehicles and staff. It runs *La Voz del SUNTRACS* with a monthly circulation of over 15,000 copies. It provides social assistance to workers.

In 2000, under the government of Mireya Moscoso, the SUNTRACS spearheads the fight against the rise in the bus ticket. Those same years it confronts attempts to privatize Social Security Fund with large mobilizations and, together with other associations, unions and grassroots organizations, the *Frente Nacional por la Defensa de la Seguridad Social* (FRENADESO) is founded in 2003.

During the PRD government of Martín Torrijos, SUNTRACS and FRENADESO call for major national demonstrations against the reform package of Social Security which added years to the retirement age, increased dues, imposed higher dues for retirement, and the privatization of much of the funds of the Social Security Fund.

A one-month strike in 2005, accompanied by nationwide street protests, succeeds in preventing these reforms with what people called the Law of Death. The government is obliged to convene a dialogue. In that dialogue, in collusion with traitors

of CONATO, a teachers' union, the union of nurses and UNDP staff, the government manages to impose other infamous reforms defrauding popular will.

The social and political worth accumulated by FRENADESOS leads to the decision to establish a permanent social front, for which the *Frente Nacional por la Defensa de los Derechos Económicos y Sociales* (FRENADESOS) is established and becomes the touchstone of the Panamanian social movement that has led major struggles for the Panamanian people from 2005 to date.

Under the PRD government of Martín Torrijos, the SUNTRACS was forced to confront attempts to destroy the union. For such purpose Torrijos promoted the proliferation of yellow unions and brings in paid assassins. Two deaths result from that episode: worker Osvaldo Lorenzo died on August 14 in the Panama-Colon Highway project of the Odebrecht company, and 2 days later Luiyi Argüelles died in Isla Viveros where a tourism project was under construction.

On February 12, 2008 brother Al Iromi Smith died, another leader of SUNTRACS, amid the struggle for the Regulation of Health and Safety in Construction Work. Other construction workers are seriously injured and hundreds of arrests occur. The government is obliged to enact this regulation, which the workers baptize with the name of their martyr.

During the government of Ricardo Martinelli, a few months after it took office in March 2010, the SUNTRACS had to confront the new 7% tax and Jailhouse Law criminalizing social protests. Workers were brutally repressed and hundreds of arrests occur.

In his quest to destroy the trade union movement, Martinelli approved a bill eliminating union dues, the right to strike and collective labor agreements. The same bill eliminated environmental impact assessments and protected the police in the event of murdering citizens in public demonstrations. Because of the different issues included in the law, the people called it *Ley Chorizo* (Sausage Law).

This law leads to a strike of banana workers in Changuinola and other sectors in the rest of the country, including SUNTRACS. More than 10 workers are killed, hundreds are injured, 72 of them totally or partially blinded by pellets shot in their face. Hundreds of Panamanians are arrested.

A strike broke out in the Canal expansion works caused by the failure of the companies of the Unidos consortium in relation to health and safety at work. In order

to quell the fighting against the *Ley Chorizo*, the government opened rigged dossiers against almost all members of the Board of SUNTRACS and other leaders of FRENADESO. The movement is not daunted, persists in the struggle and succeeds in repealing the *Ley Chorizo*.

This year, 2012, SUNTRACS has a track record of 40 years of struggle. The slogans identifying it are “Without fighting there are no victories” and “We fight fighting”. It is a track record branded by the sacrifice and blood of construction workers.

Today the Board of SUNTRACS is chaired by brother Saúl Méndez, and Genaro López - who served in that position since 1990 - is now Secretary General of CONUSI.

The SUNTRACS, along with other patriotic, democratic and popular forces, decided to support the registration of the *Frente Amplio por la Democracia* (FAD) as a political electoral option for the Panamanian people. The decision was adopted after consulting all its structures. Genaro López is Secretary General of the FAD.

The FAD has been conceived as an instrument of struggle of the Panamanian people that must contribute to nationwide organizing. It seeks to challenge and defeat - based on the anti-democratic rules of the game in effect and in its own terrain - existing political parties, all of which represent the interests of the ruling class.



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# PSI PUBLIC SERVICES INTERNATIONAL

■ **CICOP-FESPROSA** Asociación Sindical de Profesionales de la Salud de la Provincia de Buenos Aires/ Federación Sindical de Profesionales de la Salud de la Argentina

## UNIONIZATION OF PROFESSIONALS: AN OVERVIEW OF THE REGIONAL PROCESS

**Jorge Yabkowski** FESPROSA President and Secretary of International Relations of CICOP-PSI, Published by WGSR, 2012

One of the key aspects of our self-reform process is the expansion of unionization, based on a broader vision of labor issues. Unionization of university faculty is part of the strategy to expand the realm of labor, and PSI and its affiliates have significant experience for the labor movement participating in this process.

### THE PERSPECTIVE OF COLLECTIVE HEALTH AND SOCIAL MEDICINE IN LATIN AMERICA.

First let us point out that Latin America has developed valuable ideas for collective health and social medicine. In the late eighties, with the fall of dictatorships in the Southern Cone, a reflection process began that gave way to another vision of the health-disease-care process. Latin American social medicine and the Brazilian health reform introduced new paradigms that, along with the restoration of democracy, provided the framework for different union organization of the sector.

Gastao W.de Sousa Campos states: *“Labor is a social, historical and inter-subjective relationship. We work for others. In health we work for patients and users, but also we work for ourselves. And we also work for the expanded reproduction of working and living conditions themselves, for the reconstruction of nature, for the planet to remain livable, and for the establishment of institutions and organizations...”*

In almost every society, disease and health disorders are treated with different forms of healthcare although, from the biomedical perspective, treatment of the disease has been considered the exclusive domain of medical knowledge. This role was organized and fostered by specific medical institutions and was informed, not only by professional criteria, but also by legal criteria enforced by the State. This process

does not suggest that biomedicine actually serves and owns the entire health/disease process, and even less does it eliminate other forms of healthcare. Instead it shows that medical knowledge and medical institutions establish their hegemony in respect of other simultaneous knowledge on the different health disorders.

This process of ownership and hegemony is driven not only by medical institutions but also by the actions of dominant society, and even by some secondary sectors, due to the social, economic/political and ideological significance of the health/disease process for the biosocial production and reproduction of social groups.

*Medical knowledge reduces disease to signs and diagnostics established through almost exclusively biological indicators, which allows the separation of patients and their diseases from their concrete social relations. This also aims at working almost exclusively with the disease and not with health.*

In other words, the so-called hegemonic medical model or biomedical model is a complex historical, social and cultural structure promoted by the State, but also socially demanded in the health-disease-care process.

Collective Health seeks an epistemological leap towards the incorporation of new paradigms to facilitate the democratization of actions intervening in the collective, pledging to strengthen the process of social transformation to achieve the disalienation of the human beings and their emancipation as citizens.

Assuming that healthcare practices are socially and historically determined, its interlocutors multiply and diversify to transcend what is strictly sectorial by establishing diverse connections with: institutional actors linked to politics, educational and cultural organizations, science and technology, environment, human rights, consumer protection, trade unions, religious groups, grassroots organizations, political parties, universities, etc.

Jairnilson Silva Pain states: *“Collective Health in Latin America has been built through projects, struggles, dreams, subjectivities, ingenuity, work and art in order to generate a change in the way of approaching, learning and acting on the health-disease-care issue of the population: attempting to differentiate itself from the conventional positivist approach based on respect for the inherent complexity of the concrete processes of nature, society and history”.*

Supported by this new vision of health-disease process - in which the liberal exercise of professions and the biologist conception give way to a holistic approach

- grassroots democracy, multi-professions and socio-political commitment became natural elements of the organization of this new collective of workers.

## **II LATIN AMERICAN HEALTHCARE ORGANIZATIONS: CONTRADICTIONARY FEATURES**

Unlike North America, where practitioners have organized into associations centered on the liberal practice of the profession, with the main objective of regulating the payment of the medical act, the Southern Cone has shown a history of union organization in the first two decades of the past century: the Medical Union of São Paulo (1921), the Uruguayan Medical Union (1921), and the first Argentinian Medical Union in the city of Chivilcoy (Province of Buenos Aires) (1924). Although the objectives of these unions were to defend medical doctors in all forms of the profession, the liberal exercise thereof prevailed. Thus, grouping by profession regardless of the place and work relationship created confusion regarding union objectives. The case of the Uruguayan union is paradigmatic because, even today, medical doctors working as employees, medical doctors who own private establishments and even medical students coexist.

The case of Argentina is particularly prominent with its evolution towards a more precise union strategy: in 1936 the first medical union (*Asociación de Médicos Municipales de la Ciudad de Buenos Aires*) was created exclusively with staff employed by the State. At that time public hospitals were heavily influenced by their origin as benevolent societies. Medical doctors worked free in the morning and lived off their private practice in the afternoons. The origin of the union was a strike of hospital doctors who worked for free and demanded a salary.

Then in the forties and fifties, massive unionization during the Perón government included the hierarchical staff of state-owned companies that brought together professionals of that field, in particular engineers, but also other professions. Only in the eighties, at the end of the military dictatorship, when the process of professional unionization - particularly in the field of public health services - soared and became massive transcending the geographical boundaries of the City of Buenos Aires.

A brief analysis of the stances of Latin American medical organizations reveals that they are characterized by the hegemonic medical and biologist conception regardless of the political orientation of their leadership. In Brazil many trade union and collegiate organizations are led by the PT and other progressive political for-

mations. Once they were in favor of the creation of the Unified Health System (SUS), but within it they fiercely defend their corporate interests. In Chile hospital doctors are not part of sectorial unions and in fact are represented by their professional organization, the Colegio Médico de Chile. This ambiguous professional-labor union status is also found in other Latin American countries.

An example to the contrary has been the great strike of 2001 in El Salvador against the privatization of the health system. SIMETRISS (Sindicato Médico del Seguro Social), together with STISS (*Sindicato de Trabajadores del Instituto del Seguro Social*) and social organizations spearheaded an alliance in defense of public health, which has been a model of the union of health workers and popular movements for Latin America, which cost them dismissals, persecution and imprisonment of leaders.

We see clearly the contradictory nature of some medical organizations in the stances of the CONFEMEL (*Confederación Médica Latinoamericana y del Caribe*). In 1999, their Declaration of Porlamar included, by unanimous agreement of member organizations, a harsh stand against neoliberalism in the sector which “... *restricted public health budgets, increased copayments and fees, decreased costs by closing hospitals, undermined the vested rights of the insured and drastically reduced professional and non-professional staff in public services.*” The commitment was “... *to participate actively in the proposal of health and social security policy guidelines agreed with civic and social movements, democratic political parties, churches, professional, labor, popular and religious organizations that go beyond the reduced concept of sector to become State policy. And defending social security, and particularly social health insurance, by opposing any model that distorts its doctrinal essence.*”

However, a few years later, under the leadership of the *Federación Médica Venezolana*, CONFEMEL prioritized corporate defense and adamantly opposed the solidarity missions of Cuban medical doctors in Latin America. Their Extraordinary General Assembly of 2007 in São Paulo discussed the presence of irregular practitioners (with no diploma or registration) in the region, in general invited by religious missions or the governments themselves to act in the public network. The most obvious cases were Venezuela and Bolivia. Had the leaders of CONFEMEL changed between 1999 and 2007? No. Essentially the organizations and leaders were the same. What had changed were the external conditions. In 1998 there were only 1,600 primary care physicians in Venezuela. The *Mission Barrio Adentro* entailed a dramatic expansion in the coverage of free public healthcare for millions of Venezuelans. Instead of participating in this process by negotiating its interests, the Federation decided to confront it. A few years later, many Bolivian medical organizations followed suit and both imposed their agenda on CONFEMEL.

### III THE UNIONISM OF HEALTH IN ARGENTINA

In Argentina there are long-dated and powerful organizations by specialization, whose main tasks are relations of liberal professionals with social security, with the control over registration delegated to it by the State and the control of professional ethics. They are the *Confederación Médica de la República Argentina*, the *Confederación Bioquímica*, Dentistry and other organizations and professional associations. Most of them belong to the *Confederación General de Profesionales de la República Argentina* and CONFEMEL. All these organizations have in common that they are non-union bodies, even when they attempted to have a union by sector of activity, promoting small unions by profession, they did not manage to develop it. The only clearly majoritarian, purely medical labor union is the most traditional and oldest one in the country: the aforementioned *Asociación de Médicos Municipales*, with 7,000 members.

Since then, the case of Argentina has a strong distinctive feature compared to the rest of the continent: It is multi-professional. It is no longer about unions by profession but by sector of activity, and they include all health professionals with a university degree. Born in the heat of the defeat of the dictatorship, elements were incorporated at the very beginning that are now at the center of the debate on trade union self-reform: pluralism, union grassroots democracy, autonomy of political parties, and the State and socio-political commitment of the population to defend the public health system as central areas of their construction.

To better understand this process, we must specify that the Argentinian health system comprises three subsectors: private health insurance, which covers 4 million inhabitants, social security or system of social actions administered by unions by sector of activity, provincial governments and the national government with 16 million beneficiaries and the public sector with 1,500 hospitals and 6,000 health centers, the only option for 20 million Argentinians including the unregistered, autonomous, unemployed workers and smallholders. The public system serves 90% of emergencies and is in charge of 80% of the training of human resources working in the health sector. It has 300,000 agents, 100,000 of whom are university graduates. Despite its responsibility for healthcare, the public sector receives a budget of only 2% of the GDP, of the 10% of GDP for total expenditure in health, i.e. the highest total spending in health in Latin America. In other words, we see a contradiction in Argentina between high spending to which the population contribute 4% of the GDP (including direct spending and private insurance) and the State only half. This underfinancing by the public sector, with high health liability, has been the framework of the unionization process of the professional sector in the past three decades.

The milestone of this process was the creation of the CICOP, *Comisión Interhospitalaria del Conurbano y Provincia*, in 1988 which - upon obtaining its legal recognition in 2000 with the current name - preferred to preserve the acronym of its historical designation.

At the end of the military dictatorship, the union of professional associations of public hospitals for some time worked within the corporate medical organization, the *Federación Médica de la Provincia de Buenos Aires*, until after a democratic process of grassroots assemblies that year it was established as an independent labor union. It is currently the largest union of public health professionals in the country, with 11,000 members, 75% of which are medical doctors.

The foundation of the CICOP can only be understood in the historical context in which its cadres of leaders - many of whom are leftist students who dominated the university landscape in the seventies - were deeply influenced by the ideas of Collective Health and Latin American social medicine as mentioned above.

Between 1988 and 1998 the CICOP spearheaded numerous strikes and mobilizations that paralyzed the health system of Buenos Aires. In 1995, in the midst of neoliberal adjustments, the municipality of Morón dismissed 300 hospital workers. For three months the CICOP led the seizure of the establishment, a conflict that had the public opinion of the country on tenterhooks and ended with the reinstatement of the dismissed workers. Despite these and other successes, ten years went by between the foundation the CICOP and the approval of its charter in 1998. This reflected the difficulty of providing an institutional framework to a colossal process marked by grassroots democracy.

In 2001-2002 Argentina suffered the most serious economic and social crisis of its history. In one year alone the GDP dropped 18%, the devaluation of the peso caused a brutal drop in the income of popular sectors, and poverty and unemployment increased dramatically. A popular uprising on December 19 and 20, 2001 put an end to the government of Fernando de la Rúa. The population was organized into hundreds of popular assemblies. With regard to health, in 2002 for the first and only time out-of-pocket spending to purchase health services exceeded the amount of State budgets and social security. CICOP actively participated in the street protests and focused its work on exposing the lack of supplies in hospitals and health centers through mobilizations, lawsuits and filings with the Inter-American Commission on Human Rights in Buenos Aires and Washington. These efforts - under the slogan "Health first, let bankers wait", in alliance with organizations of patients, human rights agencies and movements of unemployed workers led to the creation of the

Social Health Forum of Argentina, a coalition that raised the flag of community alliances in defense of the right to free and universal public health. These joint efforts with the community of users continues to be at the center of CICOPS's union strategy.

In June 2004, after two years of internal debate, the CICOP decided to put to direct and secret vote of its members the proposal to become part of the CTA (*Central de Trabajadores de Argentina*). Organic membership to a union central signified a step forward with these union members recognizing themselves as workers. Of 4,000 voters, 62% were in favor. Since then the role of the CICOP in the CTA has been on the rise and it now occupies three positions in the National Executive Committee, one of which is the Occupational Health Secretariat.

FESPROSA was founded in 2005, fostered by the CICOP, and it was the first strictly national professional organization with a clear union nature, with members from all health professions. This foundation was attended, among others, by the multi-profession unions of Salta, Jujuy and Mendoza, also founded in the mid-eighties. FESPROSA has 27,000 members, 60% of which are medical doctors. It is majoritarian in 16 of the 24 Argentinian provinces, where 82% of 20 million Argentinians - who only have the public sector to solve their health issues - live.

In the past six years the tendency has been to broaden the base of the new professional labor unions. In the provinces of Chaco, San Luis and Santa Cruz youth organizations also bring together workers with intermediate academic, so-called technical, degrees: nurses, x-ray technicians, lab assistants, etc. But the new aspect has been the conflict and the subsequent process of unionization in the provinces of Córdoba and Tucumán.

These provinces undertook and still undertake unified struggles for all health workers, with an important role played by medical doctors in the leadership and organization of workers. The provincial governments of Tucumán and Córdoba attempted to separate medical doctors from the rest of workers by offering a differentiated wage, which was rejected in both cases. An agreement was reached in Tucumán in 2011 that benefited all health workers, and Córdoba is heading in the same direction. As a result, emerging unions that are members of FESPROSA, such as SITAS, *Sindicato de Trabajadores Autoconvocados de la Salud* in Tucumán and UTS, *Unión de Trabajadores de la Salud* in Córdoba, now represent all health workers. This new and complex exercise of coexistence and common struggle has become one of the most important phenomena of the Argentinian unionism in recent years. With 2000 members each, these organizations have pushed out the archaic majoritarian guilds from the sector in both provinces.

Since it was founded in 2005, FESPROSA has focused on fighting against the increasing precariousness of employment in the public health sector. Of its 300,000 workers, both professionals and non-professionals, over 30% worked in precarious conditions, with varying degrees of informality in their contracts. In the extreme case of the province of San Luis, 90% of professionals worked in precarious conditions with three-month contracts. Since 2006, the struggle of FESPROSA has achieved the regularization of over 25,000 professionals and health workers. In the province mentioned above, contracts are now for five years.

FESPROSA is one of the first unions to incorporate the human rights of patients in their statutes, particularly of those subjected to research tests. The status of the Federation proposes *“to defend and ensure ethics and good practices in all the phases of research, with the Declaration of Helsinki as inevitable and unquestionable principle in respect of the bioethics of research on human beings.”* In this context, in 2007 FESPROSA denounced the multinational Glaxo-Smith Kline laboratory (second in the world in economic power) for violating patient rights in a research with poor children of Santiago del Estero. This complaint had great national and international repercussion, leading the enforcement authority of protocols in Argentina to suspend the research and fine the company and researchers the equivalent of US\$ 700,000. The regular work of FESPROSA with affected patients and resistance to the pressure from the multinational contrasted with that of some medical organizations that prioritized the corporate defense of the fined physicians over the human rights of the population. At present FESPROSA is fostering a new national law to regulate clinical research and bioethics in Argentina.

In conclusion: CICOP and FESPROSA are successful experiences of organization of non-traditional labor collectives, broadening the horizons of union action. With no major organizations already in the sector, the precepts of self-reform were introduced in the very genesis of these unions and are reflected in their statutes.

In 2009 CICOP introduced the female quota of 50% for its leadership bodies, to our knowledge the first Argentinian union that takes this important step towards gender equality.

For CICOP AND FESPROSA the incorporation of the community of users through experiences such as the Social Health Forum and the fight against pharmaceutical multinationals has signified necessary union self-regulation at the time of using force. Even in the toughest and most protracted conflicts, healthcare was always guaranteed in the emergency room and for the hospitalized. This self-regulation, coupled with the ongoing dialogue with social organizations and patients, did not

allow the conflicts steered by FESPROSA and CICOP to be disconnected from public opinion by the discourse of those in power. Self-regulation has always entailed a tough internal battle against sectors promoting extreme measures such as closing hospitals, their evacuation and the removal of security guards, measures that directly and irreversibly affect the community of users of the public health sector. Anesthesiologists are an emblematic case: supported by a shortage of specialists across the country and taking advantage of the indolence of the State, they established forms of pressure from beyond workers, even abandoning patients at the door of the operating room to defend their interests.

In the province of Tucumán, in 2011 a survey revealed that the leaders of SITAS-FESPROSA were the most highly respected by the public opinion of Tucuman. In Córdoba a survey of more than 5,000 citizens showed that 82% of the population was in favor of the government of Córdoba negotiating with UTS-FESPROSA. In Mendoza and other provinces a similar situation has occurred. In these provinces long-lasting conflicts were, and still are, experienced, and this consideration of the community of users would be impossible without the measures of union self-regulation for no patient with immediate need to be abandoned to their fate.

#### **IV THE HEALTH GROUP OF THE PSI**

The PSI brings together more than 600 unions in 120 countries and it is the majority international organization of the public sector, made up through Global Unions with the ITUC and the TUCA. 25% of PSI members are healthcare workers so the Health Group was created in which unions representing all workers of the sector participate. These include the CNTSS-CUT (*Confederación Nacional de Trabajadores de la Seguridad Social-Central Única de Trabajadores*) and CNTS (*Confederación Nacional de Trabajadores de Salud Privada*) of Brazil, COFE (*Confederación de Funcionarios del Estado*) of Uruguay, CONFUSAM (*Confederación de Funcionarios de la Salud Municipalizada*) of Chile, and multi-profession unions such FENPRUSS (*Federación Nacional de Profesionales Universitarios de la Salud*) of Chile. The CICOP (since 2004) and FESPROSA (since 2008) participate in representation of Argentina, along with other unions.

This integration is undertaken with progressive banners of defense of public health services. In August 2010, the PSI Health Group met in Cartagena de Indias, reaffirmed the guidance of the World Congress of Vienna in which over 200 health unions from five continents participated. In its final Declaration on demands and commitments of labor unions, it pledges the following:

**1** *We assume that health is a right and not merchandise, and that it needs to be guaranteed by the State, whereby the State should promote strategies to regain full control of public health financing, preventing the privatization of healthcare in all its forms (outsourcing, externalization, concessions, etc.).*

**2** *We guarantee the proper financing of the public health system, increasing State investment.*

**3** *We promote decent work to eradicate the increasing precariousness of labor in all its forms (working hours, wage gap, work overload, etc.) and guarantee decent pensions.*

**4** *We promote respect for freedom of association and the immediate implementation of ILO Conventions relating to representation, collective bargaining and the right to strike.*

**5** *We demand the eradication of violence in the workplace, improving working conditions and promoting respect for worker rights.*

**6** *We assume that the health of the health workers is the cornerstone of work in this sector and we are committed to generating union actions to protect workers.*

**7** *We demand compliance with the rules of protection, occupational health and biosecurity in the workplace.*

**8** *We note the growing phenomenon of emigration and immigration of health workers and warn about the negative consequences of this trend. We demand that governments take measures to respect the labor rights established in international conventions, and also in projects of countries that are now beginning to experience this phenomenon such as Brazil, Canada and the United States.*

**9** *We encourage affiliates to fight for issues relating to the most vulnerable groups, such as those suffering from discrimination due to gender, youth, race, ethnic group and diversity.*

**10** *We promote the participation of both workers and users in the defense of quality public health services.*

**11** *We encourage the generation of national drug plans ensuring free access to them and the continuity of treatments.*

**12** *We call on governments of the region, in particular of Colombia, Guatemala and El Salvador, to ensure the integrity and life of union leaders and promote the end to threats and harassment.*

COROLLARY FESPROSA and CICOP have succeeded in one of the toughest challenges facing health unionism in our America: the inclusion of medical doctors. Both the unions of all health workers as well as multi-profession unions of the American region have not achieved the majority participation of medical doctors and on equal standing with their peers in other professions and the rest of health workers. Although the historical conditions of the Argentinian experience have been and continue to be very specific, it is also true to say that the hegemonic vision of the medical doctor is deeply rooted in our country. Therefore, the experi-

ences of CICOP and FESPROSA are the result of a political union project sustained for over a quarter century that openly confronts the corporate vision.

In a complex experience, the mass of affiliates began understanding that the union of health professionals and health workers and grassroots democracy are altruistic proposals, but also effective tools when it comes to defending worker rights.

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## DIFFICULTIES OF LABOR MOVEMENT WITH SPECIAL REFERENCE TO THE LATIN AMERICAN STRUCTURE

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### INTRODUCTION

This study analyzes the challenges unionism faces at present throughout the world, but with particular reference to our Latin America.

Among the many difficulties, most of which are detailed below, we underscore State interventionism or 'regulationism' that limits or restricts union action in most of the labor laws of our region.

This inadequate structure results mostly in an inadequate structure, both in terms of labor organization as well as of collective bargaining, which end up excluding most of the workers from the possibility of exercising rights to form and join labor unions and to bargain collectively, sharply weakening labor unions.

This phenomenon is described, pointing out the troubles of company-specific unions and collective bargaining versus the benefits of unions and collective bargaining structure by sector of activity, to then include a brief discussion on the "trade union self-reform" initiative.

Possible strategies to reverse this situation are also discussed and some conclusions are drawn.

### **I CRISIS OF LABOR UNIONS AND OF COLLECTIVE SELF- STEWARDSHIP IN COMPARATIVE LABOR RELATIONS.**

It seems clear that, at least since the 80s, unions were the main protagonists of freedom of association and self-stewardship, but now have seen their power di-

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<sup>18</sup> This document was presented at the union meetings preparing for their participation in the XVII American Regional Meeting of ILO (Santiago, December 2010).

minished or stalled, with important exceptions in some countries. It is along these lines that can refer to the crisis of labor unions - and consequently of freedom of association – crisis that has causes and manifestations.

### **Causes of the Crisis**

If not the only, then it is one of the main causes of the crisis of the labor unions: we refer to the neoliberal economic policy of the late 20th century, based on the imposition of a single or hegemonic rationale: that of the neoliberal economic doctrine with its clear prescriptions for labor relations and labor Law.

As we all know, the prescriptions for the labor force of neoliberalism call for the individualization of labor relations, for which the State needs to remove regulations that protect individual workers and intervene in regulations that restrict or limit collective action, both to the extent of the politically possible.

Deregulation and flexibilization of labor laws, the promotion of decentralization of collective relations (since, if it is not possible to completely dismantle the collective factor, to decentralize it is a way of approaching individualization), and privatization of social security (full privatization, where it has been politically possible, and partial in the other cases) have been implemented to materialize such plan.

All this has - and eventually accomplishes – a very clear objective: the weakening of the position of workers and their organizations.

This was the prevailing trend in the late 20th century, but with the turn of the century a restorative reaction or reaffirming reaction of classic labor law was observed: Argentinian legislative reforms of 2004 and following, Uruguayan ones from 2005 to 2009, as well as some important case law developments in the Constitutional Courts of Colombia and Peru, as well as in the Supreme Court of Argentina.<sup>19</sup>

Similarly we experience the so-called “postmodern culture” marked by individualism, the consequent devaluation of the collective and much lack of solidarity. A culture as individualist and unsupportive tends to be insensitive to typically collective and solidarity phenomena, such as labor unions, labor law and social security.

The impact of the fall of the wall or the expiration of the bipolar world of the

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<sup>19</sup> Against this tendency and unexpectedly resuming the blame assigned to the protection of workers related to economic hardships, the surprising Spanish reform of 2010

20th century has been strong and weakened the position of workers. Indeed, the existence of the so-called “real socialism” required capitalist systems to maintain a façade of humanity towards workers. With the disappearance of this option, they were able to show themselves as they really were, with no need to make concessions.

The massive introduction of new technologies substituting the labor force weakens the position of workers by generating unemployment and simultaneously segmenting trade unions by promoting or allowing different ways to fraction the rank and file or fragment the collective, including, at times, labor laws themselves.

Informality also leaves individual workers unprotected and makes it difficult for labor unions to represent this sector.

But not all difficulties come from outside. There are also difficulties inside unions such as bureaucratization in some cases, deficiencies in democracy and transparency in others, on occasions episodes of corruption, an unfortunate politicization in other scenarios and, above all and very especially, the *structural inadequacy of Latin America*.<sup>20</sup>

### **Some Manifestations of the Crisis**

The labor crisis manifests itself in different ways, among which we underscore the decline or stagnation of union membership rates, as well as a decline in union representativeness.

The decline in membership rates in some cases and their stagnation in others has been a frequent manifestation of the crisis, perceivable in comparative labor relations over the last decades. However, there are relevant exceptions: Sweden, Norway and Denmark continue boasting high rates of union density; and it increased more than two (almost threefold) between 2005 and 2009 in Uruguay.

But... is the rate of union membership important? It is definitely an index that needs to be taken into account, but it does not explain everything, far from it. In fact, reality shows labor unions with high membership that, however, does not have mobilization capacity and conversely, there are unions with more moderate membership rates with strong convening power.

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<sup>20</sup> Infra, 2.3

Representation and representativeness are not the same. They are different concepts. Representation is mechanical or arithmetic: the labor union represents its members as do all other institutions or associations. Representativeness is something else: it refers to the ability to convene, pull or mobilize that, when the labor union has this ability, it will convene many more workers than its members. Representative labor unions mobilize non-member workers. Representativeness is more than mere representation.

In this regard, representativeness is more important than representation, although to some extent the latter is necessary - but not sufficient - for the former.

The greatest problem has been the decline or stagnation of representativeness. Decentralization of labor, diversification of labor, outsourcing processes and the expulsion or 'travestism' of workers presented as independent companies or deceptively autonomous workers are the determinant factors.

## II THE "CRISIS" OF LABOR UNIONS IN LATIN AMERICA

Focusing our analysis on our Latin America, we could start by wondering whether it makes sense to speak of "crisis" of labor unions in our region since the idea of crisis – although not in its etymological sense - usually evokes supervening difficulties that disrupt or seriously impair something that was previously functioning more or less reasonably well. However, it seems that in Latin America - with few exceptions - the labor movement never reached a substantial degree of development. So really, rather than discuss crisis, we should refer to a state of underdevelopment of the labor movement.

And which could be the causes of this restriction of the growth of unionization in our region? Without intending to cover the entire list, we shall expound on three of the possible reasons, namely: State interventionism limiting union action, the weakness of labor unions themselves and their inappropriate structure.

### State Interventionism Limiting Union Action

Latin American labor law is characterized – and again with very few exceptions - by intervening and limiting labor unions, collective bargaining and strikes. It can be said that our labor codes or general labor laws are "schizophrenic": initially they are reasonably protective of workers as individuals, but at the time of regulating collective action, they become restrictive and controlling. Both aspects can be explained.

## **Some Causes of State Interventionism Limiting Labor Unions**

Legislative ‘regulationism’ is linked to our legal culture. Indeed, since the incorporation of our culture into Western Christian civilization, Latin America has always had a closed, written, State-driven and punctilious juridical system that identified the Law with laws. Everything should be in the laws. What is not in the laws might as well not exist, at least for the Law. This kind of juridical system is still in place since its origins in the late Roman Law, i.e. the Digest of Justinian which sought to encompass all the Law so that it would not be necessary to search for anything beyond that text.

In colonial times, our countries received the Law of Spain and Portugal that, at the time, were the most closed and written juridical systems of the world.

And at the time of independences, the model was French Law, also public and legalist, based on the famous Napoleonic Civil Code of 1804 with the same unrealizable fantasy of the Digest of Justinian.

But it is not only a matter of juridical culture and tradition. It is also about politics. Latin America has been characterized by a political authoritarianism that always considered labor unions as a dangerous power, a potentially opposing one, which needed to be controlled or invalidated.

That interventionist and ‘regulationist’ tradition, compounded by this political authoritarian concern, inevitably leads to State action as the mechanism to control labor unions. This explains the schizophrenia: everything (if not much or some) to individual workers; nothing to collectively organized workers; furthermore, if possible, avert that organization or at least render it innocuous to the established power and make it controllable by it.

## **Manifestations of State Interventionism Limiting the Collective**

Simply by reviewing most of Latin American labor laws we see the explicit prohibition or limitation of the political activity of labor unions, as well as all kinds of obstacles to the exercise of the right to strike. Often collective bargaining is also restricted.

Regulations for labor unions become exasperating: who can join and who cannot; who can be a leader and who cannot; what should be the internal structure of the labor union; which bodies should it have; what should be the number of members of each body; what such bodies can do and what they cannot; how and where the

labor union must be registered; which legal status it will have; and what can and cannot be done with such status; etc. The list is endless and denotes deep concern about control and delimitation.

A sharp European observer described his perplexity when he noted that Latin American labor legislations - and sometimes even the Constitutions – show equal or greater concern about securing the exercise of negative individual freedom (i.e. ensure the possibility not to exercise of freedom of association), than about securing the exercise of positive individual freedom of association. He notes that most of our laws not only guarantee the right to join a union, but also explicitly - and sometimes even more intensely – establish the right not to join or disaffiliate.

This is a clear anomaly – one might even argue it is discrimination - because the recognition of any right entails the right not to exercise it, with no need to state it explicitly. For example: the recognition of property rights entails the right to not become an owner, and no one has demanded that this possibility be explicitly spelled out in the Constitution or the laws. Similarly, the recognition of freedom of religion entails, of course, the right not to practice any religion, and no one has seen the need to explicitly spell it out. The recognition of the right of assembly involves the possibility of not meeting, even if not expressly stated. The recognition of the right to freedom of expression includes, of course, the option of remaining silent, with no need to indicate it explicitly. But then... what does right to form and joint labor unions have that - for this specific case - the possibility to not exercise this right is expressly established with equal, if not greater, guarantees? Obviously, it is a clear prejudice and the determination - if not explicit at least evident and poorly disguised – of pursuing its non-exercise.

Above and beyond all this, there is another element that is clearly anti-union in the labor legislation of Latin America and which very intensely and directly affects the efficacy of union action: the imposition by law of an inadequate structure for the right to organize and collective bargaining.<sup>21</sup>

### **Some Causes of the Weakness of Labor Unions in Latin America**

The causes of the weakness experienced by most Latin American unions are *exogenous and endogenous*, i.e. they are causes imposed from outside and others that are linked to certain characteristics of unionism in the region.

Among the *external or exogenous causes* firstly we should mention, of course, reg-

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21 *Infra*, 2.3

ulations limiting labor unions and the political control that the State tends to exercise over them.

Secondly, it is also important to include an adverse economic policy, which prevailed in most of our countries in the 80s and 90s.

Thirdly, an inconvenient legislatively-imposed structure to which we must add, in fourth place, the processes of corporate decentralization which, coupled with the decentralized structure of labor unions, ends up segmenting the collective of workers that should be its rank and file.

But not all evil comes from outside. The weakness of labor unions also has causes of own: *internal or endogenous*.

For example, the divisionism and atomization of labor unions. There are small countries with five to ten union centrals. More than twenty labor unions in one same company have been counted. The so-called “union parallelism”<sup>22</sup> is a common reality in many of our countries.

In such a scenario, little wonder that most of the labor unions of the region have low representativeness, which necessarily entails less power (before employers, before authorities and before workers themselves).

In other cases, though clearly not in all, a political dependency of the labor union is observed, whether on the government or the political party. This may respond to ideological reasons, of course, but sometimes may be due to the weakness of labor unions that can only sustain themselves or reach certain milestones at the cost of a political identification that would not be indispensable if they had more power of their own.

Moreover, it appears that union weakness and restrictive State ‘regulationism’ feed on each other in a vicious circle. Weak unions accept that interventionism, albeit limiting and controlling, because it is functionally necessary in the short term, but it also perpetuates their weakness. Indeed, let’s estimate the chances of union action on a scale of 1 to 10, where 1, 2 and 3 would be the minimum or more elementary levels of activity, such as, for example, to have legal status; and at the other end of the scale, the higher levels, such as 8, 9 and 10, would indicate the possibility of fully developing all forms of union action and even of transcending

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22 Several labor unions in one same unit of representation.

them, for example, by participating in government and even taking over it. Hence, powerful labor unions would not accept regulations that guarantee the minimum levels and impede the medium and higher ones because they can achieve them on their own. Instead, weak labor unions may easily admit and even demand restrictive State regulations that impede their access to level 4 and following, provided that such regulations guarantee the exercise of the lower levels due to the impossibility of reaching them on their own. However, these regulations that guarantee a few actions that labor unions could not themselves impose and, impede their access to the higher levels condemn labor unions to chronic or permanent underdevelopment. Thus, 'regulationism' and union weakness feed on each other in a vicious circle in which the weakness encourages restrictive interventions, which end up perpetuating such weakness.

One major obstacle to the development of unionism in Latin America is its inadequate structure, which is specifically discussed below.<sup>23</sup>

### **Special Reference to the Structure of Labor Unions and Collective Bargaining in Latin America**

**The prevailing model: decentralization imposed by law.** In most Latin American countries, the structure of labor unions is imposed by legislation and it is a decentralized structure with company-specific unions, which also entails equally decentralized company-specific collective bargaining and strong atomization of labor unions. The only exceptions are Argentina, Brazil and Uruguay whose legislations encourage unionization and collective bargaining by sector of activity. These are - incidentally - the countries of the region in which, right now, unionism is stronger or, better said, less weak; these three countries also have broader coverage of collective bargaining than the rest. In all other Latin American countries, company-specific unions and collective bargaining prevail by law.

This legal imposition of a given union and bargaining structure directly and clearly violates freedom of association, violation which does not require much substantiation given that one of the basic principles of freedom of association is the full power to form and join unions and determine their structure and action.

But besides violating the right to freedom of association, the imposition of the decentralized structure is particularly inappropriate for Latin American countries. Indeed, they are mostly economies of limited scale, in which between 80 and 90%

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23 Needless to say that the general difficulties described in supra 1 also affect Latin America.

of the EAP works in small-scale companies. This means that most workers cannot form a union and, if successful, it will be a tiny union with four or five members, i.e. without power due to its lack of scale. This generates weak unionism confined to the limited space of the company. In times of corporate decentralization, outsourcing, precariousness and informality - as we are experiencing at present - company-specific unions are subject to the decisions of their employers. Simply with part of the regular business of the company outsourced or transferred to another company, such decision impacts the union in exactly the same way: the workers of the outsourced or subcontracted company will cease to be members of the union, which is company-specific. The times of economic crisis also impact unions very seriously because the closure of a company entails the inexistence of the union...

An ILO study reveals how the legal imposition of company-specific unions as the sole or preferred union structure - combined with the requirement, also legal, of a minimum number of members to form a union - precludes the unionization of most of workers in the country. If we consider, on one hand, the minimum number of workers required by law to form a union (between 10 and 20), and the number of workers employed in smaller economic units with less than that number, we conclude that 50% to 88% of the EAP is legally denied the right to organize in countries such as Paraguay, Peru, Nicaragua, Venezuela, Colombia and Costa Rica.<sup>24</sup>

No doubt there are countless flaws in the company-specific union not only, but most especially, in developing countries like ours.

### **Flaws of the Decentralized Union Structure (company-specific unions)**

- a)** Company-specific unions inevitably generate low rates of nationwide union membership. The majority of workers do not have the possibility of forming and joining a union, as detailed above. The highest rates of unionization are found where centralized unions prevail, i.e. unions by sector of activity. Only this structure has the potential to achieve widespread coverage.
- b)** The company-specific union is more sensitive to anti-unionism and more exposed to acts of anti-union discrimination by the employer. It is more 'within reach' of corporate power.
- c)** It is also more sensitive to the segmentation of the company and even to its

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<sup>24</sup> FSAL ILO/ACTRAV Project, Thirteen Electronic Bulletin, August 2010 (<http://white.oit.org.pe/proyectoactrav/>).

closure (let's not forget that the mere closure of the establishment is a relatively common anti-union practice in Latin America). If it is a company-specific union, once the company vanishes so has its rank and file and sphere of action.

**d)** The company-specific union is more permeable to “corporate culture”. As it is within the company itself, the union risks being, to some extent, endogenous, endogamous... incestuous if you will.

**e)** Except for unions of large companies, as stated above, the decentralized union is weak due to lack of scale or size. The essence of union association and of its origin is to confront the economic power of the employer with the force of numbers, i.e. less workers in the union, less power of counterbalance.

**f)** The company-specific union runs the risk of showing less solidarity. Its closed and endogamous nature, circumscribed to the company, tends to separate it from - or make it insensitive to - the reality “outside”, i.e. all that is taking place “beyond the walls”.

**g)** For the same reason, the decentralized union is less suitable for the macro level: participation in national public bodies, participation in national or sectorial policy, etc.). The radius of its vision is limited and foreign to major areas. If it looks too far, it loses focus on its object. If it concentrates on the object, it cannot grasp the general scenario.

**h)** Similarly, the action of the company-specific union is impotent at the regional level, let alone at the global level, with the exception, in this case, of global unions of multinational enterprises.

### **Advantages of the Centralized Union Structure (by sector of activity)**

**a)** Unions with centralized structure, organized by sector of activity, reach much broader coverage because they are able to encompass all workers, even those in small companies (the single worker of a company with only one employee can join the union of the sector of activity directly), outsourced workers and even autonomous or informal workers.

**b)** The union by sector of activity is freer - or at least further away - from the pressure of employers, both from their direct pressure as well as from their more diffuse psychological, moral and cultural pressure.

c) For reasons of scale, size or dimension, the union by sector of activity is potentially stronger, and therefore, more effective in its self-stewardship and anti-establishment power.

d) Theoretically, the centralized union is more apt to consider and take into account the macro level, for exactly the inverse reasons to those described above for the company-specific union.<sup>25</sup>

e) It also endows the union by sector of activity with more willingness to show solidarity, which does not mean that it is always solidary, but simply that it is more inclined to solidarity.

f) Above all, we must emphasize that the centralized union by sector of activity *does not prevent union action in the company* (through delegates, sections, committees or company-specific unions as such). The union by sector of activity can “descend”, but the company-specific union cannot “rise”.

This is reflected, *mutatis mutandis*, in collective bargaining, as could not be otherwise, since the union is its preferred and almost exclusive subject.

## The Structure of Collective Bargaining

By imposing structure of company-specific unions, Latin American labor legislation is indirectly imposing that same structure for collective bargaining.<sup>26</sup>

In fact, union structure determines the structure of collective bargaining. The union by sector of activity tends to sign agreements by sector of activity, although it can also sign company-specific collective agreements with firms operating in the respective sector of activity. However, company-specific unions can only sign company-specific collective agreements, cannot negotiate or reach collective agreements at a higher level than theirs, i.e. at a level that is infinitely beyond it (as stated above, the same applies to collective bargaining: the union by sector of activity can “descend”, but the company-specific union cannot “rise”).

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25 *Supra*, 2.3.2, lit. g)

26 As if this were not enough, to make matters worse, the labor legislation of most Latin American countries also imposes or explicitly encourages decentralized collective bargaining and prohibit or discourage bargaining by sector of activity. The opposite happens in Argentina, Brazil and Uruguay which encourage or foster centralized bargaining.

In countries like most of ours, company-specific decentralized collective bargaining results in a weak, atomized, short-term collective bargaining with scarce coverage (except, of course, in large cutting-edge companies, but over 80% of Latin American workers do not work in such companies).

### **The International Dimension**

The above presupposes a national approach. But today, the national level is necessarily partial or incomplete. The traditional internationality of the labor movement and of labor Law itself, current globalization and the development of spaces of regional integration have led to the need for *international trade union action*.

National institutions, such as the State itself and traditional labor unions, are now insufficient to address transnationalized capital and act successfully in regional or global organizations.

And it is clear that the necessary international collective action requires the development of international union structures, structures for international collective bargaining and for international disputes.

### **The “Trade Union Self-Reform” Initiative**

The initiative of “trade union self-reform”, suggested by the Secretary General of the TUCA at the Foundational Congress of this international labor central, proposes an introspective analysis of the Latin American labor movement that, among other important objectives, seeks to broaden its coverage or scope.

It points out the lack of coverage of traditional salaried workers themselves, which should extend beyond those working in large companies - which are a minority - to reach outsourced, informal, unemployed, retired, migrant, women and young workers, etc.

After this diagnosis-purpose, our attention is focused on union structure: the Latin American countries where the labor movement enjoys certain strength are Argentina, Brazil and Uruguay. What do they have that others don't and could explain the difference? A union structure by sector of activity and consequently predominantly centralized collective bargaining. Consequently, and based on theoretical and practical analyses of the kind that we been performing in this research, we propose evolving to a union and bargaining structure by sector of activity and by region.

The “trade union self-reform” initiative entails many other measures, some highly complex, which are beyond the scope of this paper<sup>27</sup>, but which need to be emphasized because this initiative is a clear reaction of continental unionism to the issue of structure and the other causes of crises or weakness.

### III POSSIBLE STRATEGIES

Given the overview detailed above, it appears that the first strategy to reverse the negative aspects of the present situation call for *unity and concentration*, both national and international.

At the national level it is necessary to overcome the fragmentation, decentralization and atomization of labor unions and collective bargaining, replacing existing structures with larger, more centralized ones based on sectors of activity and regions, rather than on the company. Even at higher levels, such as sectors of activity, both national and international, it is possible to assay policies to merge organizations. Union mergers in Germany and the creation of the ITUC (International Trade Union Confederation) are examples to be borne in mind. The proposed “trade union self-reform” also points in that direction.

Another course of action is the *policy of alliances*, political and with emerging groups, such as consumer groups, cooperatives, environmentalists, etc.

Third, the labor movement should take on “atypical”, new or non-traditional issues, such as vocational training - essential for access to employment and its conservation, health, culture and services to members; the issue of poor workers and decent work; the reduction of working hours; human rights; democracy; jurisdictional support to individual workers; and above all, *the development of an alternative economic policy*, to which the ILO Global Jobs Pact (2009) is a valuable contribution. It is clear that the development of an alternative economic policy cannot be exclusively assigned to the labor movement, but the labor movement can lead this task or at least launch it. In any case, its long-term survival depends on it.

And, of course, lastly but most important, Latin American labor unions must evolve towards a centralized structure based on sectors of activity and regions, with identical structure for collective bargaining.

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<sup>27</sup> See TUCA, *Procesos de autorreforma sindical en las Américas*, São Paulo 2009. Also the webpages of the TUCA and FSAL project (ACTRAV/ILO).

The “trade union self-reform” initiative is a first step towards autonomy. But we must also act in heteronomy. Latin American labor legislation that imposes the decentralized structure and excludes the majority of the workers from the right to form and join unions is obviously a violation of freedom of association and, as such, should be reported to the ILO Committee on Freedom of Association, before international human rights courts and before national courts.

Similarly, it is necessary to promote legislative reform. The State should stop promoting decentralized unions and decentralized collective bargaining. In fact, it should encourage centralized unionization and centralized collective bargaining. This would not necessarily be a violation of freedom of association to the extent it is seen as the mechanism required to promote the exercise of fundamental rights, such as unionization and collective bargaining, which today are barred to most union members. It should be a legislation that promotes or supports union action and collective bargaining based on an appropriate structure.

#### IV CONCLUSIONS

- 1) Freedom of association is one of the cornerstones of labor Law and more so of modern democratic and pluralistic society. It is also one of the highest fundamental rights because it is *a right that creates rights* and because it was the precursor of the international recognition of human rights.
- 2) The economic climate has impacted collective self-stewardship in comparative Law, but with important exceptions that should be studied more closely to identify the causes of their success and evaluate their usefulness in other scenarios.
- 3) In Latin America union weakness seems to be congenital. Therefore, it would be more accurate not to refer to union “crisis”, but to *union underdevelopment*. The causes of this underdevelopment are manifold, but one cause is *labor legislation* reasonably protective of individual workers, but which *severely restricts or limits union action, atomizing unions and collective bargaining*.
- 4) We are starting to perceive a certain malaise with this situation and which has generated certain reactions, for example, the “trade union self-reform” initiative.
- 5) The structure of unions and collective bargaining imposed by labor legislation prevailing in most Latin American countries is inappropriate, dysfunctional and excludes the actual exercise of the right to organize and bargain collectively.

## TRADE UNION STRATEGY FOR OUTSOURCED WORKER

Oscar Ermida Uriarte and Alvaro Orsatti<sup>28</sup>

This paper was presented at the II WGSR Meeting held in 2009, based on data from the document *Descentralización, Tercerización, Subcontratación* (Decentralization, Outsourcing, Subcontracting) (FSAL/ILO Project, Lima, 2009 by Oscar Ermida Uriarte and Natalia Colotuzzo); and *Acción sindical ante la tercerización en América Latina-Caribe* (Trade union action against outsourcing in Latin America-Caribbean), by Alvaro Orsatti, *Revista Derecho Social*, Double Issue IV-V, Editorial Bomarzo Argentina/Spain/Uruguay, 2009).

### 1 TWO-WAY ROAD: Socio-politics and direct action

Trade union actions towards outsourcing (as in other areas of labor relations) can be differentiated into those with an outcome that depends more or less exclusively on that intervention - given that they take place in trade union structures themselves or in the workplace - and those which refer to the influence of unionism on the rest of society, especially on government structures, which therefore are often called "socio-politics". In this regard, it is customary to call the former "direct actions" and the latter "socio-political actions".

This section provides an overview of strategies related to the modality of direct union action in relation to outsourcing, drawn from experiences described in the comparative analysis.

In practice, these measures apply primarily to subcontracting although, if the trend towards comprehensive treatment for the three forms of labor relations continues (and even including the fourth form referring to workers who are actually or fictitiously autonomous), they also provide the general guidelines for their comprehensive treatment.

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Obviously, direct action is limited by the regulations and public policy as well as, when a negotiation with employers is involved, their willingness to reach to reach an agreement.

Likewise, socio-political actions can be an important element to facilitate direct action, for example when a legislative reform forces, encourages or eliminates restrictions to it.

**Table 1** presents a synthesis of this duality of trade union action applied at the national level.

**Table 2** provides a list of legal strategies that synthesizes the content of the FSAL-ILO publication.

**Tables 3 and 4** distinguish the two modalities describing the different alternatives available for direct action related to outsourced workers:

- Actions of organization and unionization of outsourced workers. Four levels are considered: company-specific trade unions, sector-specific trade unions, sectorial federations and confederations, and centrals and national confederations.
- Actions in the workplace through collective bargaining and other forms of negotiation. These refer to the forms of direct action that are present outside the trade union structure itself and which are centered in the workplace. This line also extends to the establishment, the company and the group of companies.

Lastly, a segment of direct trade union action is international, when applied to multinationals and members of their supply chains based in third countries.

**Table 5** presents the background of the comparative analysis of strategies of Global Unions.

## 2 A STRATEGIC QUESTION

In the analyses of trade union strategies for direct action related to outsourced workers, on occasions we have pointed to an “internal contradiction” that could become an obstacle to their full development: the distrust and even rejection of permanent workers towards a broad trade union policy of protection for the out-

sourced workers, jeopardizing the idea of class solidarity.<sup>29</sup>

In this sense it is important to differentiate protective trade union strategies for permanent workers that place restrictions on the development of outsourcing, from those playing the same role for outsourced workers.

Naturally the first formula will receive the immediate support of permanent workers, but problems could arise with respect to the other models where outsourced workers are the protagonists:

- When they are “internalized” because this could be considered as a form of pressure on the economic and infrastructural resources of the trade union, albeit increasing union membership and the concentration of affiliates reinforces the power of the organization.<sup>30</sup>
- If collaboration of the trade union with outsourced workers entails sharing facilities, which requires having attained a range of approaches.
- If we succeed in outsourced workers establishing their own company-specific trade union, this might lead to a competition between unions in workplaces, including the fact that (as in Peruvian mining companies) it is likely that the trade union of outsourced workers has greater membership than that of permanent workers, reflecting the situation that occurs in all positions.

Lastly, if outsourced workers are admitted into the trade union, following a “mixed” approach, usually a substandard criterion of the benefits for these workers will be used, which could solve the above-mentioned general problem, but leads to discrimination.

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<sup>29</sup> On occasions we have pointed to the relationship between this problem and trade union passiveness in respect of outsourcing: in Venezuela “to the extent in which the production sectors are not affected, outsourcing is accepted without major resistance... it seems as though the underlying principle is “while I am not affected I don’t care” (Consuelo Iranzo and Jacqueline Richter: “Outsourcing of labor. Time bomb against labor peace” (CENDES, 2005, published by CCLA, Lima, 2006)

<sup>30</sup> This situation has been commented by the ICEM (2004) that found in the concrete practice of some organization, analyzed in its national case studies.

**Table 1 Outsourced Workers:  
OVERVIEW OF SOCIO-POLITICAL AND DIRECT ACTION TRADE UNION STRATEGIES.**

<p><b>I Sociopolitical Action</b></p>	<ol style="list-style-type: none"> <li><b>1</b> Mass dissemination of the issue.</li> <li><b>2</b> Negotiations with the labor administrative authority and other regulators of companies (in the application of the strategy to expose the economic unit to manipulations of the corporate name).</li> <li><b>3</b> Accompaniment and presentation of draft regulatory legislations.</li> <li><b>4</b> Promotion of regulatory approaches in the judicial and academic spheres.</li> </ol>
<p><b>II Direct Action</b></p>	<ol style="list-style-type: none"> <li><b>1 Organization of subcontracted workers</b> <ol style="list-style-type: none"> <li><b>1.1</b> Creation of functional structures for a specific policy</li> <li><b>1.2</b> Statutory reforms to facilitate their incorporation</li> <li><b>1.3</b> Creation of new organizations</li> <li><b>1.4</b> Campaigns to increase the membership of organizations</li> </ol> </li> <li><b>2 Collective bargaining</b> <ol style="list-style-type: none"> <li><b>2.1</b> protecting direct workers</li> <li><b>2.2</b> protecting outsourced workers.</li> </ol> </li> <li><b>3 Participation</b> <ol style="list-style-type: none"> <li><b>3.1</b> Participation in the workplace</li> <li><b>3.2</b> Participation in government and tripartite policies</li> </ol> </li> </ol>

**Table 2 Outsourced Workers:  
LEGAL STRATEGIES**

<p><b>1</b> Legal establishment of the principle of equal treatment for permanent and outsourced workers</p>	<p>Aims at improving the working conditions of outsourced workers.</p>
<p><b>2</b> Recognition that many of the outsourced companies are the actual employer</p>	<p>We turn to the traditional principles of labor law as the protector that authorizes or requires, in the event of doubts on the interpretation, to choose the interpretation most favorable to workers and the principle of primacy of reality, in accordance with which legal forms or contractual names should be set aside if they contradict or conceal a reality that is more favorable to workers. Labor administration plays a central role at the time of inspections and collecting evidence.</p>

**Table 2 Outsourced Workers:  
LEGAL STRATEGIES (Cont.)**

<p><b>3</b> Imposition of joint and several liability on outsourcing employers</p>	<p>This means that both the employer questioned, as well the end-employer, are responsible for the payment of labor credits of outsourced workers. These may require the payment by one or both of them. This mechanism solves the risk of insolvency of the subcontractor, intermediary or supplier, but in itself does not guarantee equal treatment. Joint and several liability may be lawfully imposed or inferred doctrinally from the concept of single or compound employer: if faced with a single employer, regardless of whether a compound or decentralized structure is present, it is feasible to make both are accountable or one of them is, especially the principal one. This level of liability is clearly superior to that of subsidiary liability.</p>
<p><b>4</b> Reconstruction of the concepts of employer and company-specific</p>	<p>A broad definition or interpretation is used, whereby the actual employer is considered the end-recipient of the work done, given that ultimately it is the actual employer that benefits from it. Consequently, all workers who directly or indirectly work for the actual employer are the employees of same. This would solve both the risk of insolvency of the contractor, supplier or intermediary, as well as the problem of workers not knowing where to address their complaints. Similarly, the principle of equal treatment would be justified because ultimately all would work for one same employer. This approach is superior to that of joint and several liability.</p>
<p><b>5</b> Extension of basic institutions of labor law to all provision of labor, both subordinate and autonomous.</p>	<p>If ultimately the various forms of outsourcing aim at exclusion of certain workers from the protection of labor laws, why not redefine the scope of application of labor law so as to “capture those that have leaked through”? If some workers have been pushed out of the traditional boundaries of labor law, the simplest way to reach them would be by expanding such boundaries. It is the most complicated way and necessarily points to an evolution in the medium or long term, due to the difficulty to materialize it and because it requires vast legislative change. It is not even clear that labor law can be applied en bloc to these workers. It is necessary to create a system of levels or thresholds, so that “traditional” subordinate or dependent workers are applied the full classic protection, and other benefits - perhaps more minor - be applied to the more or less “atypical” workers. But there is the risk of creating workers class a”, “b”, etc. with the danger that the current process of “exclusion”, “leakage” or “expulsion” eventually anyway produces displacement from echelon “a” to “b” from “b” to “c”, and so on, until all workers end up being class “c”.</p>

SOURCE Oscar Ermida Uriarte (adapted from the abovementioned FSAL-ILO-publication)

**Table 3** Outsourced Workers:**MODALITIES OF ACTIONS FOR ORGANIZATION AND UNIONIZATION**

<p><b>1</b> Company-specific trade unions</p>	<ol style="list-style-type: none"> <li><b>1</b> Creation of company-specific trade unions solely of outsourced workers, in the company where they provide their services. Usually this is the modality preferred by companies with subcontracted work, faced with the option of allowing the unionization of these workers, as the less powerful alternative in relation to the following.</li> <li><b>2</b> Incorporation of subcontracted workers into the company-specific trade union of the permanent workers of that company. The trade union then becomes “mixed”. They could eventually include differentiations in union dues and, consequently, in trade union rights and benefits.</li> <li><b>3</b> “Internalization” of subcontracted workers as permanent workers referring to their full incorporation to the company-specific trade union of the company where they provide their services.</li> <li><b>4</b> Creation of “inter-company” trade unions (Chilean experience).</li> <li><b>5</b> Creation of a “trade union network” between the company-specific trade union of permanent workers and the trade union of subcontracted workers, under principles of coordination and cooperation. This modality is the necessary result of the coexistence of both types of organizations, in turn stemming from the business strategy of not accepting the “mixed” model or the internalization. Along the same lines, CCOO Spain proposes Inter-Company Trade Union Committees or Coordinating Commissions of Multisectorial Trade Union Sections.</li> </ol>
<p><b>2</b> Sector-specific trade unions</p>	<p>Involves the same models mentioned under 1 of “mixed” and “internalization” trade unions, but applied to structures per sector or sector of activity.</p>
<p><b>3</b> Sectorial Unions, Federations and Confederations</p>	<p>Involves the same models mentioned under 1 of “mixed” or “internalization” trade unions but applied to the higher level of centralization. Recent Chilean model in the copper mining and forestry sectors.</p>
<p><b>4</b> National Centrals and Confederations</p>	<ol style="list-style-type: none"> <li><b>1</b> Direct affiliation at the national level, open to all workers.</li> <li><b>2</b> Territorial affiliation, with the same characteristics.</li> <li><b>3</b> Special trade union structures for atypical workers (including subcontracted workers). Italian model.</li> </ol>

**Table 4 Outsourced Workers: MODALITIES OF DIRECT ACTION IN THE WORKPLACE THROUGH COLLECTIVE BARGAINING AND OTHER BARGAINING STRUCTURES**

<p><b>1</b> Prohibition of contracts</p>	<p><b>1</b> Total prohibition  <b>2</b> Prohibition in the case of the main activities  <b>3</b> Prohibition of recruitment to replace workers with labor disputes</p>
<p><b>2</b> Formalities (combined with 1)</p>	<p><b>1</b> Enrollment in registries of public and private agencies and departments.  <b>2</b> Proof of financial solvency  <b>3</b> Approval of the Ministry of Labor</p>
<p><b>3</b> Additional conditions, some of which might also be applied as flexibilizations of the prohibitions of contracts inw main activities.</p>	<p><b>1</b> Acceptance of the collective agreement of the main activity, in its clauses on working conditions and wages. The criterion used is the most favorable rule, in the sense that levels of subcontracted workers in both aspects are not less than those provided in the company or those established for equal or equivalent categories in collective bargaining.  <b>2</b> Acceptance of trade union representation.  <b>3</b> Incorporation of training activities  <b>4</b> Determination of joint and several liability of principal employer  <b>5</b> Not surpassing a certain percentage of direct employment.  <b>6</b> Priority of outsourced workers to fill new jobs  <b>7</b> Lending the trade union facilities of permanent workers for meetings.  <b>8</b> Extension to outsourced workers of the health and security in the workplace provided to permanent workers.</p>
<p><b>4</b> Verifications</p>	<p><b>1</b> Responsibility of the principal company  <b>2</b> Responsibility of the trade union organization  <b>3</b> Responsibility of the labor authority.</p>
<p><b>5</b> Trade union participation (corresponds to 4.2)</p>	<p>In determining the terms or admissibility of the contracts  <b>1</b> in qualifying the need for the contract.  <b>2</b> in the exclusion of prohibited categories  <b>3</b> in the fulfillment of obligations of the contractor  Based on the basic obligation of providing information, different variants of trade union participation are: consultation, joint decision, the right to veto. The tasks involved are: research, monitoring and negotiating.</p>
<p><b>6</b> Sanctions in cases of abuse and distortion of the recourse to the figure of the contractor</p>	<p><b>1</b> Fines  <b>2</b> Internalization of outsourced workers into the permanent ones</p>

SOURCE Based on Adrián Goldín (Precarious Labour and Collective Bargaining, 1988) and complements.

**Table 5** Outsourced Workers:  
**GLOBAL UNIONS STRATEGIES AT THE INTERNATIONAL LEVEL**

<p><b>1</b> Clauses on other companies linked in International Framework Agreements (IFAs)</p>	<p>There are about fifty IFAs with clauses on contractors and subcontractors.</p>
<p><b>2</b> Agreements with international companies acting as subcontractors</p>	<p>Refers to eventual agreements of Global Unions with companies such as Manpower. The IFA model may be used or supranational collective bargaining agreements.</p>
<p><b>3</b> Trade union “passport” workers linked to offshore outsourcing</p>	<p>UNI Model. Delocalized workers have access to the list of member organizations of the Global Unions through the world (about 1000) that undertake to support them in their new destination.</p>
<p><b>4</b> “Letters” or International Guidelines of General Principles</p>	<p>This is also a UNI model, applied to workers in call centers, often internationally delocalized. The aim is to promote guidelines on acceptable levels of labor rights for outsourced workers, company executives and consumers of their services.</p>
<p><b>5</b> Celebrating a “day” or “month” for outsourced workers</p>	<p>This model corresponds to UNI’s practice (Global month of solidarity with workers in call centers) and of ICEM in Latin America and Caribbean (Regional day against outsourcing)</p>
<p><b>6</b> Accompanying Convention 177 on Home Work</p>	<p>This is the case of the ITGLWF that has incorporated this collective into IFA drafts.</p>

SOURCE TUCA interim report on experiences of the Global Unions.

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# TUCA WGSR

## **Working group on trade union self-reform: Conceptual framework and components of action**, by WGSR, 2010

### **I OVERVIEW OF THE PROCESS<sup>31</sup>**

**T**rade union self-reform is one of the four strategic components of action approved by the TUCA Foundational Congress in 2008 for the Plan of Action.

The Plan recommends urgent and thorough restructuring and reform of the labor movement, for which the following are required:

- Changes in the functioning of the organizations.
- Changes in the behavior of the leaders.
- Changes in the structures.
- Changes in the strategy of organization/unionization, unity and alliances to attain greater representativeness.

A year later (April 2009) in the ILO Office in Lima - and with the support of the FSAL project - the TUCA summoned a meeting at the regional level with member organizations of the TUCA and other special guests, in which the Working Group on Trade Union Self-Reform (WGSR) was established.

The WGSR met in November 2009 and in February 2010 and, based on the discussions, the TUCA drafted this document with FSAL project to advance in the conceptual framework, the prioritization of the components of action and a Plan of Action for 2010.

### **II CONCEPTUAL FRAMEWORK**

**A**ware that the self-reform process is a complex challenge, the TUCA is defining the scope and conceptual implications of self-reform, making it clear that it is not a definitive concept, but instead is being continuously reviewed and validated. At present the following statement is used: "The self-reform process seeks to increase organizational strength, representation and representativeness, legitimacy

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<sup>31</sup> More details in the summary of meetings I and II of the WGSR in 2009, as well as the TUCA website [www.csa-csi.org](http://www.csa-csi.org).

and influence at all levels involving workers' rights and working conditions, employment and life, particularly in relation to collective bargaining for workers of all conditions and labor relations. The process of self-reform considers the different realities and autonomous decisions of each trade union."

The WGSR paper also argues that to achieve effective and lasting change, individuals, organizations, institutions and States are facing, among others, three major obstacles:

- First, they are unwilling (or unable) to change deep-rooted behavior or culture from long ago.
- Second, usually change does not last long. After a brief period of attempting to do things differently, individuals often return to their traditional patterns of behavior.
- Third, changes are made in the statutes and structures (media) but not at the grassroots level and in society (ends).

The process requires greater internal consistency of the organization, as well as increased external correspondence, with more relevance in the surroundings, in society. The degree of internal consistency and external correspondence emerges from the interaction, participation and leadership of trade union organizations involved in the innovation process. The implications are that, in addition to achieving greater representativeness, trade union organizations will become "facilitators of change" in society.

To address this challenge, the TUCA decided to promote a self-reform process among affiliated and fraternal organizations to generate changes based on the principle of autonomous decision-making. To this end, the process will be supported by different political and organizational management instruments, as well as experiences on trade union self-reform processes in the region, in order to incorporate a culture of continuous innovation.

### **III COMPONENTS OF ACTION AND THEIR PRIORITY**

The components of the self-reform process have been defined through participatory consultations carried out in several meetings in the region, all of which contributed important elements to the process.

So far are the following five inputs have been defined and grouped into the components of Internal Consistency and External Correspondence:

### III.1 ORGANIZATION AND FUNCTIONING.

Democracy and Internal Transparency. Includes aspects such as:

- Full participation in congresses and actions between congresses.
- Fulfillment of congressional decisions and other agreements.
- Adequate representation of minority political lines.
- Regular internal discussion.
- Ongoing publicity of the actions undertaken with an “up-down” and “bottom-up” information system, through our own and external virtual media, press conferences, forums and assemblies. This line relates to “external” communication (discussed below).
- Introduction of a turnover system for leadership.
- Incompatibility between trade union leadership roles and political positions.

Self-Financing. The financial self-sustainability of Centrals/Confederations, based on input from their organizations, is a basic guarantee for trade union autonomy and self-reform.

This target could be reached progressively, establishing partial targets such as:

- Centralization of finances so that the portion of dues that the statute grants to the Central/Confederation from its member organizations is provided in actual fact and does remain in lower organizational echelons.
- Policy of annual budgets, where the income from membership dues are contemplated.
- Special treatment for certain collectives in relation to the payment of dues: “Banking domiciliation”, lower amounts, periods longer than a month.
- “Solidarity Fund” for emergencies or problems in some organizations of the Central/Confederation.

Our own strategic thinking. It is necessary to produce a trade union theory through the analysis of, and reflection on, reality and based on autonomy of thought and trade union action. The relationship with intellectuals and universities is of great importance in this regard.

Provision of services. Trade unionism of the XXI century must be able to provide and manage services to its members (and non-members), such as:

- Legal counseling.
- Health services.
- Education and vocational training.
- Access to housing and cheaper gas and electricity.

- Leisure and culture.
- Consumer cooperatives.
- Discounts in private businesses.

If this policy is extended to non-members, it can become an important incentive for them to join.

Trade union communication with society. External communication is a component of the self-reform process to address the fact that part of the population identifies trade unionism with “problems” and “conflict”. Communication is therefore the instrument available for the labor movement to show its identity and increase its social credibility.

Furthermore, communication is fundamental to the policy of organization and representation targeting non-unionized collectives.

Actions in this area should start by incorporating content about history and current affairs of the labor movement into the curricula of primary education, including with direct involvement in its definition.

Internal communication is also crucial to ensure a democratic, consistent and proper internal functioning.

Social Solidarity Economy. Under this designation, trade unionism has created forms of association and self-management (cooperatives, mutual funds, “companies of workers”), in which aspects relating to organization, services and even self-financing are able to converge.

It can also be a field in which to exemplify the correct concept of the solidarity economy, given the simulated forms observed in practice.

### **III.2 ORGANIZATION AND STRUCTURES**

**S**ectorial grouping. When the Central/Confederation has not been sustained from the get-go by second grade structures (national trade unions, federations), the strategy of creating structures by economic sector/branch of activity that groups grassroots organizations and the corresponding companies (even mandatorily) as a way to overcome fragmentation.

This strategy even allows the framing of other collectives also considered as

“sector” (autonomous, unemployed and retirees/pensioners). More generally, it enables the incorporation of grassroots organizations that are not really trade unions (associations, cooperatives) and/or unregistered (for example, if the public authority does not authorize it).

This strategy can be developed by direct affiliation to the Central/Confederation, with allocation to the corresponding sector, with later modifications according to the changes generated in the turnover of labor.

**Territorial Grouping.** This strategy is complementary to the above, applied to geographical spaces and criteria of inter-sector organization, which may lead to better uptake and unionization of non-organized collectives.

The territorial structure can facilitate the provision of services common to all sectors in a given geographical spectrum, help achieve political impact and enable the development of socio-political and/or community unionism and the coordination of alliances.

As with sectorial grouping, direct affiliation can be a useful tool in this case.

**Functional Structures.** Traditional management structures of Centrals/Confederations (usually in the form of secretariats) focus on a set of core areas (minutes and correspondence, finances, organization, complaints and disputes, information, press and propaganda, education, internal relations).

The self-reform process involves the development of a trend that is already clearly present, i.e. adding new areas (women/gender equality, youth, international relations, human rights, social security/retirees and pensioners, small-holder farmers, autonomous/informal work, environment and security at work, social economy). Several centrals also use the complementary criterion of creating areas of specific economic sectors of industry and services.

Some of these areas support the strategies of organization/representation.

One of the tasks in this field is to evaluate the possibility that, as an alternative to the Secretariats (the most frequent format), Departments or Working Groups be used in which the work is performed with greater flexibility and in a crosscutting manner.

**Structures in the Company.** Together with the structures of Central/Confed-

eration itself, the self-reform process requires the creation or strengthening of structures located internally in the company (committees, sections) in the case of collectives of a certain size, as a form of direct trade union action in the workplace.

A trade union organization in the company is essential to collective bargaining and to influence the organization of labor aiming at, if necessary, formats of joint management or self-management.

Without social relations, the company is limited to the physical space and technical relations of production.

### **III.3 REPRESENTATION**

Seeks to increase trade union representation through organization/unionization, expanding coverage to all collectives of workers without exception or exclusion of both dependent workers and autonomous workers, highlighting the scenarios of simulation (as is the case for most outsourced workers) and even those who are not considered workers by employers or regulations.

Population/territorial grassroots organizations are also included to the extent to which they advanced in a previous stage of alliances.

The tables at the end of this paper classify non-organized collectives according to three criteria:

- Employed by category: dependent workers in the formal economy, other dependent workers and autonomous workers. Micro and small employers are not included.
- Other collectives: defined based on their personal status (age, nationality, retirement, specific conditions) to signal the importance of the mainstreaming approach at the time of designing strategies and organizational structures.
- The predominance of women workers, taking into account the importance of the home as a workplace. This exercise has been proposed by the TUCA Primer on Trade Union Self-Reform.

Brief comments on forms of organization observed in practice for each collective have been included.

### **III.4 NEGOTIATION**

Collective Bargaining. It is the main trade union action and therefore crucial element of the self-reform process, with different functions:

- Generate an internal process of training, preparation and democratic participation, defining unique criteria.
- Reach national agreements (and regional ones within the same country) supported by the policy of sectorial and territorial grouping.
- Articulate national and company-specific negotiations with an ascending cumulative criterion.
- Explore the possibility of reaching inter-sector “framework agreements”.
- Incorporate, in addition to the pay and working conditions, other issues such as vocational training and steps to be followed when faced with corporate restructuring.
- Reflect the specific needs of women workers.
- Include outsourced workers.
- Develop a trade union strategy of location of counterparts in relation to collectives in specific situations, such as domestic workers and semi-autonomous workers.
- Aim at the use of the criterion erga omnes in relation to coverage.

An important element to be discussed is the component of promotion (and even mandatoriness) of collective bargaining with State participation and responsibility.

Other Negotiations. This component also includes other types of negotiation, such as those developed between collectives of autonomous workers and local governments, and reflected in ordinances and regulations under the administrative law relating to the use of public space, or with authorities of central governments relating to facilities to access financial credit, social security coverage, centers for support and counseling, etc.

In this sense, a redefinition of current administrative law at the level of big cities, heading towards a new social juridical discipline, i.e. labor administrative law - a hybrid encompassing both the public and private spheres. The quasi labor framework obtained in this way would lead to quasi-collective bargaining (María Luz Vega Ruiz).

### **III.5 UNITY AND TRADE UNION COORDINATION/ALLIANCES**

**T**rade union unity and coordination. One way to overcome trade union dispersion and fragmentation is to strengthen the unity of action and programs at the national and subregional levels, based on common claims, such as the LPA (Labor Platform of the Americas).

This unity should be built and put into practice in times of trade union action, social action, political action, legislative action and communicational action.

This unity is fundamental to successfully tackle the challenges of globalization, integration and changes in the organization of labor.

This unity and coordination are practiced at the national and subregional levels.

One possible formula is the creation of “coordinating commissions” and “fronts” with unity of action.

Citizen Unionism/Community Unionism. Trade unions should aim the policy of alliances at organizations and social movements with similar trade union proposals/strategies. This should help advance actions that help the insertion of the labor movement in the broader agenda of society and the voice of workers be taken into consideration beyond their specific areas of activity.

A formula used by the labor movement to develop this strategy is the so-called citizen or community trade unionism. It begins by recognizing that workers are also members of the community and, in that capacity, may be members of non-union social organizations of various kinds. When they are not unionized, strategies of representativeness through coalitions and alliances may be developed.

In some trade union models, this strategy has even aimed at the full membership of such organizations.

It can also be an expression of socio-political trade unionism as trade union action is seen as considering both the needs and demands of workers stemming from their labor relations, as well as from those inherent to their status as citizens/workers.

Relations with Global Unions. Global Unions are a privileged actor in the development of alliances in the international arena. This has been facilitated by the fact that most of its members in the Americas are also members of affiliated and fraternal Centrals/Confederations of the TUCA.

GUFs represent sectors or groups of sectors globally, including regional structures, specializing in trade union work in multinational companies (including multi-Latin ones).

GUFs assist the self-reform process at the national level, to the extent that they create networks among their members and even promote their integration into sectorial structures that reprise their own approach.

GUFs also incorporate international organizational dimension into their national affiliated entities, opening the possibility of using instruments of that nature (international/global framework agreements) that collaborate with the strategies to organize and collective bargaining among workers in subsidiaries of transnational corporations.

**Table 1.1** Type of Employment  
**DEPENDENT WORKERS IN THE FORMAL ECONOMY**

<p><b>1</b> Time-bound workers</p>	<ul style="list-style-type: none"> <li>• Workers with part-time contracts</li> <li>• Workers with fixed-term contracts.</li> <li>• Young workers with apprenticeship contracts or work-training contracts.</li> <li>• Workers at home.</li> </ul>
<p><b>2</b> Outsourced Workers</p>	<p>Workers in subcontracting companies and intermediation companies and companies providing labor force with triangular labor relations. There may be relations of simulation extending to the subcontractor or employer providing the outsourced services. They can be integrated into company or sector-specific organizations, together with permanent workers, or they can create their own organizations.</p>
<p><b>3</b> Workers in duty free areas</p>	<p>In some countries, the organization of workers is discouraged or prevented through anti-union actions by the companies or legal rules and regulations inside the duty free area, established as a promotional factor.</p>
<p><b>4</b> Workers in call centers</p>	<p>Workspace with prevalence of precarious labor relations and outsourced workers.</p>
<p><b>5</b> Workers in in subsidiaries of multinational corporations with global strategies to discourage unionization</p>	<p>Wal-Mart is a paradigmatic case where the young workers that restock the shelves have had to sign private contracts binding them to non-unionization. They may correspond to the outsourcing modality.</p>

**Table 1.2** Type of Employment  
**DEPENDENTS WORKERS IN OTHER SITUATIONS**

<p><b>1</b> Workers in micro-enterprises</p>	<p>In very small companies, failure to join a union is due to:</p> <ul style="list-style-type: none"> <li>• customs, given the horizontal relationship with the employer;</li> <li>• taking advantage of the low visibility outside of the unit;</li> <li>• legal criteria, whereby a minimum number of workers is established (between 10 and 40 depending on the country) to authorize the creation of a company-specific trade union.</li> </ul>
<p><b>2</b> Household workers</p>	<p>Usually they are workers regulated through special schemes with substandard recognition of their rights. They are considered dependent if they work with the “sleeping in” modality or on an hourly basis if a certain minimum of daily hours is exceeded with the same employer.</p>
<p><b>3</b> State workers who are not allowed to unionize</p>	<p>This applies mainly to workers in the police, armed forces, security, penitentiary employees.</p>
<p><b>4</b> Workers in schemes of socially useful work</p>	<p>Refers to beneficiaries of universal income programs obliged to perform work or programs of socially useful work/work in the “care-giving economy” (such as the “community mothers”), which can be considered semi-public workers.</p>
<p><b>5</b> Workers that the rules and regulations do not consider dependent workers</p>	<p>It is the case of:</p> <ul style="list-style-type: none"> <li>• work promoting products through “direct” or “door-to-door” sales</li> <li>• of “volunteers” in NGOs and non-profit foundations</li> </ul>

**Table 1.3** Type of Employment  
**AUTONOMOUS WORKERS**

<p><b>1</b> Workers in small-scale urban and rural production</p>	<ul style="list-style-type: none"> <li>• self-employed single workers or owners of urban family units.</li> <li>• urban and rural artisans</li> <li>• smallholder farmers</li> <li>• artisan fishermen and women</li> </ul> <p>The creation of trade unions by sector of activity or the use of trade unions of different professions or trades is allowed only in few countries of the region. The organizational alternative is civil association and the economy of labor.</p>
<p><b>2</b> Professionals</p>	<p>May be affiliated to company or sector-specific organizations or alternatively create their own structures.</p> <p>They include semi-autonomous workers in the sense that their activities are highly concentrated in one or two petitioners. They include situations of “falsely autonomous workers”.</p>
<p><b>3</b> Paid household workers</p>	<p>They correspond to the sub-universe of autonomous workers as they do not meet the requirement of dependency.</p>
<p><b>4</b> Workers in ambiguous situations due to the unconventional nature of their activity</p>	<ul style="list-style-type: none"> <li>• waste recyclers (in situations where these services are leased out to private companies)</li> <li>• workers of games of chance</li> <li>• sexual workers</li> </ul> <p>Criminal situations have been excluded.</p>
<p><b>5</b> Unpaid housekeepers</p>	<p>The trend of considering them workers is getting stronger due to recognition of the economic value of their contribution to the gross national product. Social security schemes have begun to include voluntary contributory subsystems. There is a tradition of leagues of housewives, often in relation to consumer organizations. They are also beginning to create trade unions.</p>

**Table 2 MAINSTREAMING PERSPECTIVE**

<b>1</b> Young people seeking their first job	In direct affiliation schemes for their subsequent incorporation into sectorial structures. In labor statistics, they are considered “new workers” and are classified among the unemployed. They can join the union structures through direct membership schemes and reclassify at the time of finding employment.
<b>2</b> Unemployed	Refers to situational unemployment: in labor statistics they are part of the economically active population. They may be temporarily maintained in the organizations of their latest employment, or in direct affiliation schemes, and will be reclassified to another sector at the time of finding new employment.
<b>3</b> Retirees/ pensioners	Seniors covered by social security. They can continue working, in some cases with authorization of the scheme to which they belong, in precarious work (often outsourced). They can continue belonging to the trade union of their last job or organize their own structures.
<b>4</b> Migrants	In the frequent cases of migrants in an irregular situation (undocumented), labor relations are often precarious. There are precedents of non-mainstreaming organizations.
<b>5</b> Different capacities	Refers to those usually called “disabled”, which often have to work in precarious conditions. There are precedents of non-mainstreaming organizations linked to promotional legal schemes.

**Table 3 CLASSIFICATION EXERCISE OF FEMALE COLLECTIVES**

<b>Work at Home</b>	<b>Mixed Scenarios</b>	<b>Work outside the home</b>
<b>1</b> Housekeepers <b>2</b> Paid household workers <b>3</b> Maquila at home <b>4</b> Tele-workers <b>5</b> Workers in socially useful tasks <b>6</b> Community Organizations	<b>1</b> Saleswomen on the streets (roving or semi-fixed) <b>2</b> Promoters of direct or door-to-door sales <b>3</b> Hairdresser salons <b>4</b> Laundrywomen <b>5</b> Sexual workers	<b>1</b> Public sector workers without permission to unionize. <b>2</b> Workers in call centers <b>3</b> romoters in department stores and supermarkets <b>4</b> Workers in duty free areas <b>5</b> Outsourced cleaning services

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# USA

## THE AFL-CIO AND INTERNAL REFORM OF THE LABOR MOVEMENT

### I THE PRESENT GLOBAL CRISIS AND LONG-TERM TRENDS AND CHALLENGES

The global jobs crisis presents a challenge to unions throughout the region. Over 200 million jobs were lost globally and an estimated 400 million jobs are needed to bring the global economy back to 2008 employment levels. Flawed neoliberal policies resulted not only in the dramatic events and failed financial institutions of 2008, but in a much longer term trend: a widening gap between workers and employers. For many countries, the current jobs crisis represents a crisis on top of the crisis that already existed. Well before this crisis, many countries experienced declines in stable and decent work, as well as levels of unionization and bargaining power. As with the current crisis, the longer term trend has resulted from this flawed vision and thirty years of neoliberal policy. Given the jobs crisis and growing inequality, the AFL-CIO actively supports the region's initiatives to reform our own organizations, structures and practices and build stronger, more representative unions.

At the 2008 founding TUCA Congress, unions from throughout the region committed to a profound restructuring and reform of our labor movement. This affirmation resulted in a new regional strategy that focused on diversifying leadership to reflect the movement it represents, adapting union structures to reflect the needs of the movement and ensuring that all workers, migrant, youth and women, would consider the labor movement as an important voice for progressive action.

Understanding that workers face one of the worst global economic depressions since the Great Depression of the 1930s, the labor movement needs to recommit to building a stronger, democratic and diverse movement that can help address growing inequality, advocate for alternative economic policies that benefit working families and be a voice for all workers. In order to address the challenges facing workers, unions must transform themselves into a movement capable of building worker power in a global economy where workers' ability to form and join unions comes under attack daily.

## **II THE AFL-CIO'S BROAD PROGRAMMATIC RESPONSE: Guiding Principles for Internal Reform and Repositioning of Our Labor Movement**

Recognizing the need to reconnect the values of the labor movement with working families, the AFL-CIO launched a program to re-introduce and reposition the labor movement. AFL-CIO leadership developed eight principles to guide our repositioning work. These principles include:

- Redefining unions as working people and not as organizations detached from its memberships. The AFL-CIO is committed to supporting diverse, democratic organizations with leaders who reflect the membership.
- Putting our values into action by demonstrating the effectiveness of collective action. The values of the labor movement need to be reflected in all programs and policy decisions.
- Building partnerships with community organizations and advocating for all workers, not just members.
- Supporting innovative strategies that allow the labor movement to adapt to the changing workforce and changing economy.
- Demonstrating the importance of high quality and performance standards in the workplace and throughout society.
- Upholding the highest ethical standards, which means running responsive, democratic organizations that are accountable to our members.
- Preparing workers for the workforce of the future. Unions are key to developing innovative training programs and helping to prepare the highest quality workforce.
- Working together with industrial partners to solve problems facing working families.

Based on these principles, the AFL-CIO has realigned program and policy priorities to build a stronger US labor movement in the face of long-term economic changes and increasing concerted attacks on basic labor rights and legislative protections accumulated over decades.

## **III HOW THESE CHALLENGES AND TRENDS MANIFEST THEMSELVES IN THE UNITED STATES**

Over the last thirty years, workers in the United States have faced daily attacks against their rights to freedom of association and collective bargaining. In the United States, 37% of public sector workers and 6.9% of private sector workers have

a union<sup>32</sup>. The overall density in the United States is 11.8% but some states in the South of the country have density rates of only 4%. This represents a decrease from 24.1% in 1979<sup>33</sup>. Although productivity has continued to rise since the 1980s, real wages have remained stagnant for workers. With lower density rates, unions have had less ability to bargain collectively to capture a greater percentage of the wage shares. Today, workers<sup>34</sup> put in the same or more hours for less wages and social benefits. Only 20% of workers have defined benefit pensions, down from 38% in 1980.<sup>35</sup> Today, workers typically pay \$4,129 per year toward health insurance premiums for family coverage (plus out-of-pocket expenses), up from \$1,787 in 2001.<sup>36</sup>

Since the 1980s, the United States economy has experienced profound structural changes in its economy. Many thousands of jobs and factories have left the United States as outsourcing and offshoring has hollowed out the US manufacturing sector. What were often decent union jobs with strong union representation and collective bargaining that created a middle class over decades entered into global competition for jobs with US corporations exporting a model of low wages, weak social protections and anti-union practices around the world, taking advantage of weak or unenforced legal frameworks and less developed labor movements whenever possible.

Workers and their unions also face daily attacks on legislative and political fronts in the United States. In 2011, governors from states such as Wisconsin, Ohio and Indiana fought to ban collective bargaining for public sector workers and pass legislation to prohibit the effective collection and free use of union dues according

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32 U.S. Department of Labor, Bureau of Labor Statistics, "Union Members—2011," at <http://www.bls.gov/bls/newsrels.htm> (acc. Feb. 13, 2012). Barry Hirsch and David Macpherson, Union membership and coverage database from the CPS, at [unionstats.com](http://unionstats.com) (acc. Feb. 13, 2012).

33 Barry Hirsch and David Macpherson, Union membership and coverage database from the CPS, at [unionstats.com](http://unionstats.com) (acc. Feb. 13, 2012).

34 In the quarter century from 1972 to 2007, real (inflation adjusted) hourly wages for production and non-supervisory workers in the United States declined by 10%. See U.S. Department of Labor, Bureau of Labor Statistics, Employment, Hours and Earnings from the Current Employment Statistics survey (national), at <http://www.bls.gov/ces/> (acc. Jan. 6, 2010). Inflation adjustment is CPI-U from Bureau of Labor Statistics, "Consumer Price Index: All Urban Consumers (CPI-U), U.S. city average, all items (1982-4=100)," at <ftp://ftp.bls.gov/pub/special.requests/cpi/cpiiai.txt> (acc. Jan. 6, 2011).

35 Barbara Butrica, Howard Iams, Karen Smith and Eric Toder, "The disappearing defined benefit pension and its potential impact on the retirement incomes of baby boomers," *Social Security Bulletin*, 69, 3 (2009), p. 1.

36 Kaiser Family Foundation, *Employer Health Benefits: 2011 Annual Survey* [ISBN 978-0-87258-895-0], at <http://ehbs.kff.org/pdf/2011/8225.pdf> (acc. Feb. 17, 2012).

to unions' broad social justice goals. So-called Right-to-Work legislation, which exists in 23 US states, allows workers to receive the protections and benefits of being a union member while explicitly undermining unions' ability to collect any dues whatsoever. Similarly, conservative and xenophobic political forces in many states have proposed numerous state laws to limit the rights of immigrant and migrant workers. Arizona, Alabama and Georgia being only the most notorious. These and other attacks to limit fundamental worker rights of public and private sector workers contribute to the growing inequality between workers and their employers, as bargaining power is reduced and real wage gains are harder to achieve.

#### **IV EXAMPLES OF REPOSITIONING AND INTERNAL REFORM LED BY THE AFL-CIO**

**G**iven these challenges facing US workers, the AFL-CIO recognizes that the structures built in 1955 to represent workers no longer reflect their needs in 2012. In order to transform existing structures and build new ones, the AFL-CIO developed a program to transform its structures and programs and reposition itself to take on the challenges facing all workers in 2012.

##### **Workers' View of the Labor Movement**

The AFL-CIO's auto reforma/repositioning program reflects a commitment to reintroducing unions to workers and transforming the way unions are understood. Despite workers' strong support for union values, many workers continue to be unfamiliar with the mission of unions and how they work every day to help improve working and living conditions for working families. The AFL-CIO leadership understands that unless our labor movement transforms the way working people and opinion leaders see unions and our movement, we cannot effectively advocate for working people and build a stronger, broader and more inclusive movement. Our movement has initiated a pro-active campaign to affect the way questions related to the role of unions in work, life and society are framed in the broader public sphere.

##### **Global Organizing and New Forms of Representation**

To limit global corporations' assault on workers' rights, the AFL-CIO recognizes the need to build new global alliances among workers and unions. In January 2011, the ITUC, Council of Global Unions and the AFL-CIO agreed to develop a new model of global corporate campaign to bring the multiple resources of the global labor movement to pressure the German telecommunications company Deutsche Tele-

kom. While German workers at Deutsche Telekom enjoy the protection of a union and a culture of social dialogue, the company's subsidiary in the United States, T-Mobile, wages anti-union campaigns to ensure that workers do not receive the same protections and benefits as their German counterparts. The global labor strategy combines on-the-ground organizing with workers in the US with joint actions coordinated with the German affiliate ver.di and national centers around the world. These alliances are critical to building more effective worker power vis-a-vis global corporations.

Globally, corporations are systematically undermining the ability of workers to form unions by reducing the number of direct-hire permanent workers and replacing them with temporary, sub-contracted and third-party contracted workers. Given the increase in these types of precarious work arrangements, the AFL-CIO is developing new forms of organizing and representation. The AFL-CIO's Organizing Department is focused on developing a thorough understanding of how employers disguise employment mechanisms and hiring arrangements with the objective of challenging their implementation worldwide. Global companies often attempt to define workers as independent contractors whenever possible in order to avoid any responsibility, yet meticulously manage these workforces. In sectors like mining and energy, major multinationals often have three indirect workers for each direct hire. As work grows more precarious and informal, it becomes more challenging for workers to organize. When temporary or sub-contracted workers attempt to organize, the employer may simply choose not to renew the contracts with the staffing agency, which undermines the ability of workers to organize and effectively ends the employment--with no consequence for the employer.

As part of the commitment to repositioning, the AFL-CIO is working to change organizing strategies to ensure that workers in all forms of work can be represented by affiliates of the Federation. We are currently assessing union campaigns, domestic and international, in which one of the key objectives is making temporary, subcontracted workers permanent, direct employees. Assessing strategies unions in the US and globally have utilized to deal with distancing mechanisms will help us identify best practices that will be of use to domestic and international unions attempting to challenge this corporate-driven practice.

### **Strategic Alliances with Worker Center Organizations**

In the United States, millions of immigrants and people of color work in precarious, low paid jobs with few benefits and limited prospects for advancement. In the United States, immigration status, combined with ethnic and racial origin,

greatly impacts the kind of job and working conditions experienced by workers. Many of these workers receive no protections under domestic labor laws and often the structure of the labor movement has not made it easy for workers in precarious and informal jobs to join unions. Traditionally, immigrant workers and workers of color created associations and joined unions to improve their working conditions. Over the past years, many workers, particularly immigrant workers, have sought to find alternative organizations to organize themselves and seek redress for exploitation.

Over the past years, worker centers have become an important community and worker organization for immigrant workers. They provide immigrant workers information regarding their labor rights and a broad range of services, including education, training and legal assistance. Worker centers create an important space for immigrant workers to organize and take collective action to improve their working conditions.

The worker centers challenged the AFL-CIO to create new partnerships and recognize new forms of collective action. In 2006, the AFL-CIO began to formalize its relationship with the worker center movement. That year, the AFL-CIO's Executive Council adopted a resolution that permitted worker centers to formally affiliate with labor movements at the state and local levels. At the same time, the AFL-CIO entered into an historic partnership with the National Day Laborer Organizing Network, a coalition of organizations representing immigrant day laborers, many of whom work in informal parts of the construction industry and the majority of whom come from Latin America. Under the partnership, the two organizations work together on state and local enforcement of rights for day laborers, develop new protections in wage and hour laws, health and safety regulations, immigrants' rights and employee misclassification, as well as comprehensive immigration reform.

In 2011, the AFL-CIO strengthened its relationship with domestic workers and guestworkers by creating a partnership with the National Domestic Workers Alliance and the National Alliance of Guestworkers. In 2011, the AFL-CIO worked with the National Domestic Workers Alliance to successfully advocate for the International Labor Organization convention on domestic work.

In September, 2011, the National Taxi Workers' Alliance (NTWA) became the first worker center in more than 60 years to formally affiliate with the local AFL-CIO and to sign a charter with the national AFL-CIO. Employers routinely misclassify taxi drivers as "independent contractors" as an attempt to deny the drivers protections given to traditional employees, including the freedom to form a union. With their

newly signed charter, the NTWA will serve as an umbrella organization through which taxi workers can be organized throughout the country.

As part of the AFL-CIO's ongoing commitment to support new forms of organizing and representation and immigrant worker organizations, the Federation continues to build partnerships with worker centers and immigrant community organizations. In 2011, the AFL-CIO also supported and participated in the Excluded Workers Congress, which brought together workers and over twenty organizations from around the country to share strategies to organize those who have been excluded either by law or practice from traditional forms of union organization.

One particularly transformative labor-community initiative that resulted is the on-going Los Angeles Carwash Workers organizing campaign. Car wash workers, many of whom are immigrants, experience high levels of wage theft and unsafe working conditions. To address these concerns, the AFL-CIO and its affiliates joined with community and environmental organizations to form CLEAN, the Community Labor Environmental Action Network. In 2011, CLEAN supported carwash workers to negotiate their first union contract, creating the only union carwash in the country.

In all of these alliances, respectful partnership and collaboration has been the guiding principle in recognition of workers capacity to self-organize and democratically manage their organizations while joining a broader labor movement within the AFL-CIO.

### **Community Organizing-the Working America model**

Hostile labor laws in the United States and the changing structure of work and the workforce have resulted in a decline in union density. Like workers throughout the region, workers who try to exercise their right to freedom of association are routinely harassed and fired often with very limited consequences for the employer. Given these challenges, the AFL-CIO has developed a community affiliate that can represent any worker interested in joining the collective fight for workers' rights. The organization addresses the needs of workers who never had a union in the workplace and workers who lost their unionized jobs but wanted to maintain their membership in the labor movement.

In 2004, the AFL-CIO created Working America, a new way to bring millions of workers into the fight for workers' rights; to use that power in elections; and to create new forms of representation for workers. Over the past eight years, Working America has added three million new members to the AFL-CIO by promoting good

jobs and a just economy. Working America directly contacts workers to affiliate them. They go door to door to organize workers outside of the workplace for good jobs and a more just economy.

When workers receive information directly from their union, they are more likely to respond and become involved in the movement. Two out of three workers who receive visits from Working America join the organization and close to half take an action, like signing a letter or petition, on key working family issues. Working America members also receive information regarding union-supported political candidates which helps to build a stronger base for candidates that support worker issues.

Working America allows the AFL-CIO to continue to build its membership at a time when union density is in decline. The community affiliate model provides the opportunity for ongoing innovation and experimentation. In the coming year, the organization hopes to provide services, such as affordable health care, to organize more members into the labor movement. It also provides the Federation a vehicle for building a stronger constituency for labor issues and ensuring that any worker has a way to join the labor movement.

## **Young Workers**

One of the most important initiatives launched by the AFL-CIO in 2011 has been Next Up, our young worker strategic campaign. Young workers are key to growing a strong, vibrant labor movement. Unfortunately, many young workers work in sectors with low union density or other young workers consider unions as institutions of the past that do not represent their needs as workers. In 2011, the AFL-CIO held its first Next Up Conference, dedicating resources and leadership commitment to bringing together 800 young worker activists to develop a strategy for creating spaces for more young workers to enter into the labor movement. As a result of this conference, the AFL-CIO developed a Young Workers' Advisory Committee that provides leadership to the federation on ensuring that issues key to young workers are integrated into all aspects of the AFL-CIO's work.

Some of the AFL-CIO state-level federations and affiliated unions have also led by pursuing initiatives such as including a seat on the leadership committee for young workers and providing guidance and toolkits for young workers to create their own committees in local unions, develop young leaders and request mentorship and resources from their own organizations.

## **Workers' Capital**

While corporations have been slow to invest cash accumulated since 2008 to create jobs and grow the economy, the AFL-CIO has been a leader in using workers' capital to create jobs in needed infrastructure development and replacement and in the area of green economy, especially the retrofitting of ageing buildings for energy efficiency. In 2011, the AFL-CIO committed to work with member unions, union pension funds, their investment professionals and government at every level to invest \$10 billion in job creating infrastructure as well as at least \$20 million in specific energy retrofits over the next year, including a retrofit of the AFL-CIO headquarters. In 2011, the AFL-CIO also launched an S&P 500 index fund for pension plans help provide for a more secure retirement for workers. Stocks in the AFL-CIO Equity Index Fund portfolio are not actively traded, resulting in low fees and expenses. In addition to an ultra-low investment management fee of 1.5 basis points, the fund offers proxy voting and shareholder activism that promote good corporate governance.

## **Training and Professional Development for Decent Green Jobs**

In both union-run and joint labor-management initiatives, the AFL-CIO Building Trades Department and affiliates in the construction industry have provided training for tens of thousands of workers in the skills necessary to work on 21st century infrastructure. The AFL-CIO trust has created more than 10,000 union construction jobs during the past two years and has used investments of union pension capital to generate nearly \$2 billion of economic activity. It's another part of the AFL-CIO's commitment of putting public and private pension assets to work to create jobs. Joint labor-management, or "union" apprenticeship programs in the US construction industry, added approximately 8,000 new registered apprenticeships in 2010. These same joint labor-management apprenticeship and training programs have enabled approximately 40,000 incumbent construction workers in the clean energy workforce to complete training and obtain certifications in specialty fields like green electrical applications, green plumbing and pipefitting skills, specialty welding certifications required in the clean energy industry, insulation, and green heating and air conditioning competencies. These are green union jobs with collective bargaining, ample benefits and rights meeting decent work standards.

## V CONCLUSION

Given all of the challenges facing the labor movement, the AFL-CIO will continue to seek innovative ways to represent workers and to transform itself to more effectively advocate for pro-worker policies. We join TUCA in continuing to support the process of *autorreforma* and will continue to support innovative initiatives to reform our own organizations, structures and practices that will help us build a stronger, more effective and inclusive organization for workers.

# PROCESSES OF TRADE UNION SELF-REFORM IN THE AMERICAS:

Advances of the Working Group on Trade  
Union Self-Reform (WGSR) between 2010-2013

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SELECTED  
DOCUMENTS

Campaign Freedom of  
Association, Collective  
Bargaining and Self-Reform





**T**he Continental Campaign for Freedom of Association, Collective Bargaining and Self-Reform is an initiative of the Trade Union Confederation of the Americas (TUCA) supported by the Bureau for Workers' Activities (ACTRAV) of the International Labor Organization (ILO) and by the Norwegian Project "Unions for Social Justice".

Through training activities, political impact and communication, the Campaign -whose transversal axes are Gender and Youth- aims to contribute to the implementation of the Freedom of Association and Collective Bargaining as fundamental Human Rights and as pillars of the Decent Work, as well as to the strengthening of the processes related to the Self-Reform in the Americas.

Norwegian Project:  
**Unions for Social Justice**



Realization

