



Cuban workers at the yearly May Day parade

PHOTO CREDIT DAVID GILMORE

# Labor Rights and Cuba's Economic Reforms

by Geoff Thale and Clay Boggs

*Cuba has begun to carry out a series of economic reforms aimed at stimulating the island's economy. While these reforms have received some international media coverage, little attention has been paid to what the reforms might mean for social protections and labor relations in Cuba. This report provides an overview of Cuba's labor system and considers the capacity of organized labor in Cuba—and of Cuban society in general—to respond to the challenges of protecting workers in a changing economy.*



## Introduction

Since Raúl Castro became president in 2008, Cuba has taken modest but significant steps to move from an almost entirely state-run economy to a more mixed model. The Communist Party Guidelines for Economic Reform (*Lineamientos de la Política Económica y Social del Partido y la Revolución*) were approved in April 2011, outlining substantial changes in the country's economic model. Since then, more than 400,000 Cubans, out of a total workforce of more than five million, have officially entered the private sector as self-employed entrepreneurs or as employees in small businesses.<sup>1</sup> The Cuban government has legalized private car and home sales, provided loans to small businesses, and given farmers use of idle land, on the condition that the land is kept in active production. Cuban officials, including President Castro himself, have stated that the biggest reforms are still ahead. These reforms include reducing state payrolls and increasing private sector employment, gradually eliminating the state-subsidized ration card, reducing the number of state enterprises, and decentralizing economic management.

the Cuban economy are shaky: productivity is low, savings and investment rates are minimal, foreign debt remains at unsustainable levels, and the trade merchandise deficit is significant. This situation is worsened by a dual currency system that creates severe distortions throughout the Cuban economy.<sup>2</sup>

While the Cuban economy faces serious problems, many social indicators in Cuba are impressive—the country maintains very high literacy rates (nearly 100 percent), long life expectancy (79 years), and low child mortality rates (fewer than 5 deaths per 1,000 births). By these measures, Cuba is one of the most developed Latin American countries, ahead of Panama and just behind Uruguay.

At the same time, Gross National Income per capita is only about US\$6,000 per year, which is less than in the Dominican Republic.<sup>3</sup> Much of this income is distributed in the form of social programs, subsidies, and other benefits, including free health care and education; subsidized food, housing, transit, and pensions; and unemployment insurance. Wages, then, are shockingly low: the average wage for a worker in the state sector of the economy is around US\$20 per month. With wages this low, even with highly subsidized prices, many people struggle to get by. They survive in a number of ways, including through remittances and side jobs. In many cases, cash-strapped workers resort to workplace pilfering and sell the stolen goods on the black market.

Workers who receive income supplements in Cuban Convertible Pesos (*Peso Cubano Convertible*, CUC)—a currency whose value is pegged at the value of the U.S. dollar—have a tremendous advantage, as do those who receive remittances. Hotel and restaurant workers, who receive cash tips in CUC, can make as much in a week's tips as a professor or engineer can make in a year.

The current economic reforms are aimed at fixing the structural problems of the Cuban economy. The reforms carried out so far have been relatively modest, and the pace has been slow. The government has pushed back its own deadlines, especially for reducing the size of the state payroll, and has had to make adjustments to its plans. In the United States and elsewhere, there has been a great deal of debate about the nature of the reforms; analysts are divided about whether the reforms are profound enough or moving quickly enough to turn Cuba's ailing economy around. The most skeptical critics see the reforms as “cosmetic” and believe that the Cuban government is



A restaurant in historic Old Havana, a major tourist destination

Most experts agree that these reforms are necessary to stimulate Cuba's sluggish economy and to improve opportunities for Cuban workers. The foundations of

## *Cuba faces many practical problems in its attempts to reform the economy.*

not serious about its commitment to change. Typical are the comments made by a group of Cuban-American business leaders in a 2012 letter entitled “Commitment to Freedom”:

Instead of ushering in a true economic and political opening that would unleash the entrepreneurial skills of the Cuban people and attract foreign capital, it has only introduced non-systemic, heavily-taxed, revocable reforms with no legal protection or investment return.<sup>4</sup>

Other commentators have more positive views of the reform process. As Julia Sweig of the Council on Foreign Relations argued in *Foreign Affairs*:

Cuba’s reforms might appear frustratingly slow, inconsistent, and insufficient to address its citizens’ economic difficulties and desires for greater political participation. This lack of swiftness, however, should not be taken as a sign that the government has simply dug in its heels or is ignoring the political stakes. The response of Cuban leaders to their country’s vexing long-term challenges has involved strategic thinking and considerable debate. Indeed, the next few years will be crucial. As the 53-year-old Miguel Díaz-Canel, the current vice president and Castro’s newly designated successor, recently noted, Cuba has made “progress on the issues that are easiest to solve,” but “what is left are the more important choices that will be decisive in the development of [the] country.”<sup>5</sup>

But whatever one thinks about the pace or depths of the reforms, or about the government’s intentions, it is clear that Cuba faces many practical problems in its attempts to reform the economy: an aging population, lack of access to international credit, low productivity, a work force with very little training in running private enterprises, and of course, the 50-year old U.S. embargo. In addition to denying Cuba access to the U.S. market and, with the significant exceptions of agricultural products and medicine, to U.S. goods, the embargo limits the country’s access to international capital and markets and makes international



Workers in a Cuban trailer factory

transactions cumbersome.

### **The Social Costs of Economic Reform**

The prospects for the Cuban economy and the difficulties facing Cuba’s reformers have been documented by Cuban academics, by U.S. think tanks, by scholars, and in the press.<sup>6</sup> But while there has been much discussion about the economic implications of the reforms, along with calls to deepen or accelerate the reforms, there has been very little discussion about the potential social costs.<sup>7</sup> In Eastern Europe, Latin America, and elsewhere, the rapid market-oriented economic reforms of the 1990s, which often featured mass privatizations and sharp cuts to social programs, led to rising inequality, economic vulnerability, and in some cases, financial collapse. Cuban economic planners are attempting to address Cuba’s structural economic problems while avoiding these outcomes as much as possible. Cuba is proud, and rightly so, of its accomplishments in social equality, health care, and education; the Cuban government and most Cuban citizens have little interest in losing these *conquistas*

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A street in historic Old Havana

*de la Revolución* (conquests of the Revolution) to budget cuts or privatization. Cuban officials argue that the reform process is motivated by a recognition that the Revolution's achievements are not sustainable without an increase in productivity, and they insist that the reforms are meant to "update" or "perfect" the Cuban system rather than replace it.

There are certainly a variety of factors that influence the pace of reform in Cuba, including the resistance of mid-level bureaucrats

who may lose authority and position, Cuba's relative isolation from the global economy, and the Communist Party's institutional interest in not ceding political and economic power. Beyond these factors, though, part of the reason that the reforms are proceeding slowly is that the Cuban government is attempting to maintain a framework of social protections even as it opens up the economy to the private sector. The Cuban government has an ideological commitment to social equality. It also recognizes that it needs to be responsive to ordinary Cubans' desire to maintain a set of protections that has largely served them well, and to their fears that economic reform will benefit only a small number of Cubans while putting at risk the social benefits and modest wages they currently enjoy.

This will not be easy. Inevitably, the reforms will create winners and losers. Income inequality, already

on the rise, will almost certainly continue to increase, and not all Cubans who lose their government jobs will be successful as entrepreneurs in the private sector. In addition, the number of those who work as employees for others in the private sector will grow, and those who end up as private sector employees may be vulnerable to exploitation. Creating an environment that is conducive to foreign investment while also maintaining a functioning system of labor protections will not be easy. So far, the Cuban government has been very cautious about opening up the economy to foreign companies, and the past few years have not seen a rise in foreign investment. In fact, President Castro's anti-corruption campaign has seen foreign businessmen jailed on corruption charges and has made investors nervous.<sup>8</sup> But over time, increased foreign investment is likely, if not inevitable. Although President Castro and other Cuban government officials express confidence about their ability to maintain control of a growing private sector, their anxieties are revealed in the halting and sometimes contradictory manner in which the reforms are carried out.<sup>9</sup>

Over the past two years, WOLA has followed the reform process and sought to understand its social implications. In particular, WOLA has researched the state of labor rights, the structure and role of labor unions, and the ways that the economic reforms will change labor relations in the country. These issues, for the most part, have been little explored by scholars or policy analysts.<sup>10</sup>

WOLA staff members have traveled to the island several times to carry out research and have conducted interviews with religious leaders, economists, workers, and labor representatives. This report, which is the product of that research, attempts to give an overview of how Cuba's labor system currently functions, offer some tentative evaluations of its strengths and weaknesses, and consider the capacity of organized labor in Cuba—and of Cuban society in general—to respond to the challenges of protecting workers in an emerging mixed economy. The purpose of this report is

to enhance understanding of Cuba's labor system and enrich the debate about Cuba's economic reforms.<sup>11</sup>

### Labor and the Reform Process

It is clear that the economic reforms have the potential to improve the incomes of Cuban workers and improve the lives of the population as a whole. But the reforms could also put workers at a disadvantage and could erode the set of labor protections that Cubans currently enjoy. In order to fully understand the potential implications of the economic reforms for Cuban workers, it is necessary to first analyze the current situation of Cuban workers and the function of trade unions in Cuba.

The most important problem that Cuban workers face is low wages. It is very difficult to survive on public sector wages alone, and Cubans who do not have access to hard currency (most commonly through tips in tourist sector jobs or through remittances) frequently resort to pilfering or activity in the informal market. In the public sector, wages and hours are set through government policy rather than through collective bargaining. Cuban trade unions are limited in their ability to affect this situation, as they do not engage in collective bargaining over wages or hours. Moreover, workers do not have the option of forming independent unions or striking (these rights are enshrined in Cuban labor law but not in practice).

Despite these very fundamental obstacles, workers in Cuba do receive an important set of guarantees and protections that workers in many other developing countries (and some developed countries) lack. Despite shifts toward formalization in some countries, large numbers of Latin Americans work in the informal economy. Meanwhile, most Cuban workers are employed and work in the formal economy, even as they may supplement their meager wages with informal activities. The overwhelming majority of workers belong to unions, and those unions do address some local labor-management disputes. There is a framework for workplace protections. Labor legislation mandates vacation, maternity leave, and a maximum 44-hour work week, while setting health and safety rules. A system of labor courts exists to adjudicate worker grievances and discipline issues. Health care, pensions, disability, and generous parental leave are all guaranteed by the state, and there is a system for unemployment support and job retraining. While they do not bargain at the workplace level, the trade unions



The authors meet with an official from the Cuban trade unions

do advocate for the interests of workers within the government, and trade union leaders participate in the Cuban Communist Party's Central Committee, which is a key decision-making body.

It is often difficult to measure how effective these institutions—the trade unions, labor legislation, and labor courts—are in practice. In a country with almost no independent press, limited civil society, and limits on international observers, independent analysis is difficult to obtain. How faithfully do managers adhere to labor regulations? How independent are labor courts? How much influence do Cuban trade unions have in government decisions? These questions are not easy to answer, which makes it more difficult to evaluate the effectiveness of Cuba's labor relations system.

However, it is clear that the labor system delivers nearly full employment, provides some benefits, regulates working conditions, and gives some voice to workers in the political system. It is also clear that the system does not provide workers with a well-defined and transparent mechanism for advocating for improvements in wages and benefits, nor does it advocate for workers as a specific interest group within society through effective union representation. Cuba has a functioning labor relations system, although it is clearly an imperfect one.

*The CTC and its member unions state that their purpose is both protecting the interests of workers and ensuring that state enterprises are productive.*

This imperfect system faces an uncertain future. There are many unanswered questions about how the Cuban system will change and about the extent to which the Cuban state, trade unions, and Cuban workers have prepared to adapt a system of labor protections developed in a socialist economic system. Increasingly, a substantial sector of the workforce will be employed by private enterprises or cooperatives rather than by the government. This is already happening in the case of workers in Cuba's "self-employed" sector, some of whom are already, in effect, employees or contractors (the Cuban government uses the term "self-employment" to refer to almost all private sector activity).<sup>12</sup> At the same time, as state-run companies are pressured to increase productivity

schedules. In much of Latin America (and in the United States and some European countries as well), the past thirty years have seen a push toward the deregulation of labor markets and an increased turn toward the "flexibilization" of labor—including part-time employment, temporary employment, and contracting—as employers seek to circumvent workplace-based labor protections, such as the right to unionize and rules about wages, hours, and safety.<sup>13</sup> As Cuba continues its reforms, we may see such forms of labor relations appear on the island, with implications for workers and labor rights.

### Organized Labor in Cuba

Although there are a number of small dissident labor groups, almost all workers belong to affiliates of the Cuban Workers' Federation (*Central de Trabajadores de Cuba*, CTC). The federation's primary role is political—it transmits the government's message to workers and transmits workers' concerns to the government. The CTC and its member unions do not engage in bargaining over wages, hours, or terms of employment, but they do play a role in making sure that workers' voices are heard. However, as the economy continues to change—with private sector employment expanding, state enterprise management under greater pressure to generate profits, and foreign investors entering the economy in larger numbers—the CTC will need to adapt if it is to protect Cuban workers from exploitation.

To be sure, the CTC is very different from U.S. trade unions. The U.S. labor system gives unions the right to exclusively represent workers; it is based on the assumption that market economies are built on a conflictive structure that pits the interests of workers against the interests of private employers. Labor unions, in the U.S. model, are meant to function as mediating institutions that provide a structured way to represent the interests of workers and create a channel for negotiation to resolve the contending interests of workers and managers. While trade unions in the United States increasingly engage in political advocacy, they focus primarily on collective bargaining with employers.



A produce market in Havana

and threatened for the first time with the possibility of being shut down if they cannot turn a profit, it is likely that workers in state-run enterprises will be subjected to increased pressures to boost productivity. While national productivity levels need to increase, at workplaces, these pressures could also lead to excessive hours and unfairly demanding production

The CTC is also distinct from the European model of trade unionism, in which multiple unions with strong links to political parties represent workers' interests in the political arena as much as at the bargaining table.<sup>14</sup> In contrast, although the various professional and mass organizations, such as the small farmers' organization and the national jurists' association, can play a role in defending workers' interests, there is only one union federation, the CTC, which is the principal and official representative of workers. But it does not engage in collective bargaining over wages, hours, and terms of employment. It has strong political ties, like many European unions, but in a society that has only one political party such ties also indicate a close alliance with the government.

Part of the reason that trade unions in Cuba do not engage in collective bargaining over wages, hours, and terms of employment, is that as a centralized and state-run economy, Cuba sets wages and hours at the national level through a set of labor laws, regulations, and centralized planning mechanisms, rather than at the enterprise level. Workers do not have the power to change their wages or their hours. But managers at the enterprise level do not have the power to change those wages or hours either. As discussed in more detail below, the CTC plays a political role not only in educating and mobilizing workers in support of national policies, but also in gathering and transmitting workers' views to economic planners and political elites.

Nineteen national unions make up the CTC; each member union functions as a branch of the federation. Each union has jurisdiction in a particular sector.<sup>15</sup> Strikingly, unions represent both workers and managers: all personnel—clerical, technical, production, secretarial, professional, and managerial—are eligible to join the same union. (It is easy to see how this feature of Cuban trade unionism would generate skepticism about the CTC, both among Cubans and among international trade unionists.) Dues are one percent of workers' salaries; they are voluntary and paid by workers to the equivalent of shop stewards, rather than through a dues check-off. National union and CTC officials are paid from members' dues, not government funds. At the workplace level, union officials are elected directly; they then elect representatives to the union and the CTC at the municipal level, who then elect representatives to



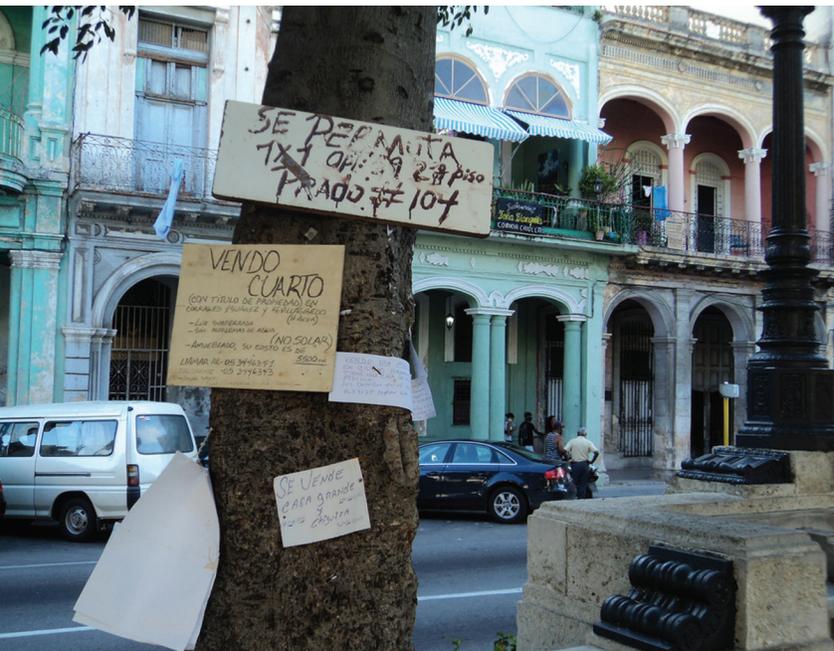
The façade of a historic building near Havana's waterfront

the provincial union and CTC, who finally elect representatives to the national union and CTC. (As in unions elsewhere, incumbents tend to seek and win reelection.) Whether because of social pressure, real support, or some mixture of the two, nearly all workers pay dues and belong to CTC member unions. A CTC official told a WOLA delegation that 95 percent of workers belong to a CTC member union (although it is easy to find people who do not belong to any union).

The CTC and its member unions state that their purpose is both protecting the interests of workers and ensuring that state enterprises are productive. The government argues that these goals are not contradictory in a socialist economic system in which workers own and control the means of production. This view was expressed clearly in a recent blog post in the online blog *Havana Times* by Elio Delgado Legon, a writer sympathetic to the Cuban government and the CTC:

Today, a strike in Cuba would be inconceivable, for such a strike would not deal a blow to the economic interests of any capitalist, but to those of all Cuban workers, who are the true owners of the country's chief means of production.

It is a mistake to conceive of the State as an independent institution which owns everything. The socialist State is nothing other than the



Houses and rooms for sale and rent

representative of the entire people, who are the true owners of the means of production.

The role of trade unions under socialism is very different from the one they play in capitalism – the socialist revolution is carried out, after all, to give workers their full rights.<sup>16</sup>

This analysis of the relationship between workers and the state in Cuba is the official explanation for the CTC's non-adversarial approach to labor relations. It is, of course, a thoroughly ideological explanation, and one that would likely be unsatisfactory to a worker who is underpaid, overworked, forced to work in dangerous conditions, or unfairly terminated. And for workers in Cuba's growing private sector, the argument that workers own the means of production is entirely irrelevant. Still, while the CTC and its member unions generally follow the leadership of the Communist party, it is unfair to simply dismiss them as agents of the state whose sole function is to repress workers and increase productivity. While the CTC's political influence is difficult to measure, its leaders meet regularly with the government ministries responsible for state enterprises and sit on high-level bodies that set overall employment policies. The CTC does, in certain instances, influence government policy decisions in response to workers' concerns. They have played a role in shaping the tax code and hiring

rules in joint ventures, for example. There are other examples of the government responding to resolutions of the CTC Congress, such as expanding maternity care benefits in the labor code.<sup>17</sup>

In practice, Cuban unions facilitate some workplace-level negotiations about issues like production schedules, safety equipment, disciplinary measures, and productivity bonuses. At the workplace or enterprise level, union and management officials meet to draw up local contracts regarding these issues, which must be ratified by a union assembly. As the economic reforms progress, the Cuban economy is moving from a model in which all wage and production decisions in a specific branch of industry are made by the relevant ministry to a model in which specific state enterprises take more responsibility for decision-making. In this context, the scope of enterprise-level contracts and negotiations are likely to expand.

If at the local level the CTC and the local unions in workplaces play a role in representing workers over workplace issues, at the national level, the principal function and utility of the CTC is political. The CTC is a mechanism for the Communist Party to motivate and persuade workers. When the *lineamientos* were being discussed and debated through a series of popular consultations, the CTC organized workplace discussions and played a key role in reassuring workers who were nervous about losing their jobs. At the same time, the CTC serves as a mechanism for workers to express their interests, complaints, and desires to the state; the CTC and member union officials represent the interests of workers in state planning ministries, at the Council of Ministers, and in other high-level decision-making bodies.

While many trade unions around the world maintain relations with the CTC (and many have been very critical of the U.S. embargo on Cuba), international labor groups have also expressed criticisms about labor rights issues in Cuba. For example, in a 2004 speech, Jeannie Drake, then-president of the British Communications Workers Union and president-elect of the British Trades Union Congress, said "Just as our defense of Cuba against the embargo and any military intervention is without conditions, so must be our support for ILO Conventions such as the freedom to organize trade unions without state sanction. We know that Cuba is under threat, but that shouldn't excuse the violation of basic trade union rights."<sup>18</sup>

*If it aims to effectively represent and defend workers in a changing economy, the CTC will need to evolve in recognition of the ways in which workers' interests diverge from the interests of the state or from the interests of managers in private enterprises. It will need to become more independent and assertive.*

The AFL-CIO (while calling for an end to all U.S. restrictions on travel to Cuba) has also been critical of Cuba and its labor practices. In a 2009 resolution, the AFL-CIO criticized the Cuban government for

[T]he exploitation of Cuban workers and ... the Cuban government's chronic violations of international labor rights, especially freedom of association (ILO Convention 87), collective bargaining (ILO Convention 98), protection of wages and wage payment (ILO Convention 95) and prohibitions on forced labor (ILO Conventions 29 and 105). Although Cuba has ratified all of these conventions, it willfully fails to comply with them.<sup>19</sup>

While some criticism of labor unions in Cuba is politically motivated, it is clear that many of the core criticisms made about the CTC—that competitor unions are not permitted and that the judgments of union leadership are influenced as much or more by broad political objectives than by their members' interests—are well-founded.

Nonetheless, the fact that there are well-founded criticisms of the CTC does not necessarily mean that it should be simply dismissed as irrelevant to labor rights. As suggested above, the CTC, despite its monopoly, is not simply a top-down mechanism of control, but may also function as a mechanism to gather, transmit, and—however imperfectly—advocate for the interests of workers in economic decision-making. At the local level, the CTC and its member unions represent workers in disputes. Yet if it aims to effectively represent and defend workers in a changing economy, the CTC will need to evolve in recognition of the ways in which workers' interests diverge from the interests of the state or from the interests of managers in private enterprises. It will need to become more independent and assertive.

### DISSIDENT TRADE UNIONS

Despite the limitations and shortcomings of the

CTC, Cuba has not seen the emergence of credible alternatives, either within the CTC or outside of it. There are several dissident trade union groups, such as the Independent Trade Union Confederation of Cuba (*Confederación Sindical Independiente*



A small vegetable farm in Matanzas province

*de Cuba*, CSIC), the National Independent Labor Confederation of Cuba (*Confederación Obrera Nacional Independiente de Cuba*, CONIC), and the Confederation of Independent Workers of Cuba (*Confederación de Trabajadores Independientes de Cuba*, CTIC).<sup>20</sup> However, the membership of these organizations is extremely limited—a Miami representative of the dissident trade unions estimated total membership at around 1,500. And none of these unions are officially recognized.

Dissident trade unions are closely associated with the larger dissident movement in Cuba; there are several reasons why the dissident groups in Cuba—and,

*It is likely that some of the most effective advocates for change in the foreseeable future will include individuals within the system, including bureaucrats, scholars, and representatives from the mass organizations.*

by extension, dissident trade unions—are limited in both influence and capacity. One obvious reason is government repression and marginalization. Viewing the dissident community as subversives linked to external enemies (such as the Cuban exile community and the U.S. government), Cuban state security monitors, infiltrates, and harasses dissident groups. It has relied heavily in recent years on the practice of short-term detentions to prevent protests. (Although the Cuban government released all of its previous prisoners of conscience in 2010 and 2011, Amnesty International designated five Cuban prisoners as prisoners of conscience in 2013.)<sup>21</sup>

Party and prohibit independent trade unions, which have to carry out their activities in a very hostile environment;...arrest and harassment of trade union members.<sup>22</sup>

Another limitation on dissidents' effectiveness is the widespread perception in Cuba that all dissidents are agents of the U.S. government (which does indeed channel millions of dollars a year to dissidents through "democracy promotion" programs for the stated purpose of "regime change"). While this belief is certainly promoted by the Cuban government, it is also widely held by ordinary Cubans. Most Cubans have criticisms of their government, and they want change. But they are also proud of Cuba's independence and resentful of foreign interference. While not all dissidents receive U.S. democracy funds (and neither the U.S. Agency for International Development [USAID] nor the State Department will release the names of the Cuban organizations or individuals that receive U.S. funds), the fact that the United States finances some dissidents tends to strain relations not just between the entire dissident community and the Cuban government, but also between the entire dissident community and Cuban society at large.<sup>23</sup>

Along with these external limitations, dissident groups, including dissident trade unions, have not been able to develop strategies or appeals that have won widespread support in Cuban society.

In this context, in which dissident trade unions are marginal and limited in scope and the CTC has many obvious shortcomings, it is also important to recognize that there are many individuals and organizations in Cuba that are neither dissidents nor hide-bound defenders of the status quo. These individuals are found in the religious community, universities, official mass organizations (including the CTC, the national peasants' organization, and the women's organization), government institutions, and the Communist Party itself.<sup>24</sup> While the dissidents will continue to be an important voice in advocating for greater freedom of expression and freedom of association, it is likely that some of the most effective advocates for change in



In Old Havana, a man carries cardboard boxes to be recycled

Cuba's treatment of dissident trade unions has been criticized in international forums. For example, in a 2003 International Labor Organization (ILO) case, the International Trade Union Confederation (ITUC) charged that:

The authorities recognize only one trade union central controlled by the State and the Communist

the foreseeable future will include individuals within the system, including bureaucrats, scholars, and representatives from the mass organizations, including the CTC.<sup>25</sup>

### Labor Legislation in Cuba

Trade unions play an important role in defending labor rights, and the current state of trade unions in Cuba raises questions about whether and how they will adapt to the changing economy on the island. Another key element in the Cuban labor relations system is the labor code, which is a framework for labor legislation and regulations in Cuba. The labor code is currently under revision; Cuba's leaders have promised that the new labor code will address some of the issues raised by Cuba's economic reforms and extend protections to workers in the private sector. A draft was made public in July 2013, and the labor code was debated in town hall-style meetings across the country in fall 2013.<sup>26</sup> The following analysis focuses on the current code, rather than the new draft.<sup>27</sup>

The current code defines the basic framework for labor relations in Cuba, including the role of labor unions, rules for hiring and firing, procedures for dispute resolution, and limits on the number of hours that workers can be required to work. It reads at times more like an employee handbook than government legislation, and it is a clear example of how Cuba is still a centrally planned (one could even say centrally micro-managed) economy. It is true that Western European governments have legislated work hours, vacations, benefits, and discharge protections for many years. And while the United States has a less extensive legal and regulatory framework than many other countries, it too regulates wages and hours, health and safety, employment discrimination, and other workplace issues. Still, the Cuban labor code is surprisingly detailed.

The code clearly and explicitly states the rights of workers to form unions, and it protects union leaders from retaliation from employers for organizing (of course, this legal right has not translated into the emergence of independent unions, and it is far from clear that the leaders of the CTC are independent from government influence). While the labor code tasks unions with the responsibility of protecting workers, representing workers' interests, and helping to resolve conflicts, it also states that the labor unions



Children play baseball in a public recreation facility

are responsible for increasing production and ensuring efficiency. Labor unions, in Cuba's labor law, are mediators—their job is to make sure that the state does right by workers and workers do right by the state. The labor code also provides a framework for the granting of productivity bonuses and other incentives for productivity.

Along with regulations in the code, Cuban government policy establishes national health care, paid disability leave, pension systems, maternity and parental leave, and protections for child labor. (This is true in many European and some Latin American countries as well. In the United States, many of these issues are the subjects of collective bargaining agreements, although there are efforts to put some of these issues on the congressional agenda.) The labor code also establishes clear procedures for workplace dispute resolution: workplace labor courts, called Popular Councils for Labor Justice, are composed of a management representative, a CTC or union official, and a third party elected by an assembly of workers at the specific workplace. Discipline and discharge issues can be brought to them by individual employees representing themselves, by an attorney, or by union locals. Their decisions can be appealed to local courts, known in Cuba as Popular Municipal Tribunals, and can be appealed all the way up to the labor branch of the Cuban Supreme Court. The actual



A popular private restaurant in Havana's Vedado neighborhood

functioning of these courts, including the degree to which they are able to operate independently, has been little studied. It deserves further attention. As the economy changes, it remains to be seen whether these tribunals are independent and responsive enough to be able to protect workers from exploitation by private sector employers, or from state-run employers that may face competition from private competitors and pressure from the state to increase productivity and reduce costs.

The ILO has frequently recommended that Cuba remove specific references to the CTC from the labor code.<sup>27</sup> The draft of the new labor code continues to make specific mention of the CTC and gives recognition to the “union organizations that emerged as a part of the historic struggles of our nation,” in a euphemistic but unmistakable reference to the CTC and its member unions. According to the ILO:

[T]he law must not institutionalize a factual monopoly by referring to a specific trade union confederation; even in a situation where at some point all workers have preferred to unify the trade union movement, they should still remain free to choose to set up unions outside the established structures should they so wish and to join the organization of their own choosing.

Both the current labor code and the new draft do recognize the right of workers to form new unions, but international organizations have questioned the degree to which this right has been recognized in practice.<sup>29</sup> The ILO has also criticized Cuba for failing to legally recognize the right to strike, for effectively prohibiting strikes, and for failing to protect the right to collective bargaining.

While the pending new labor code can and should provide a framework for labor laws and labor regulation in a mixed economy, the future of labor rights in Cuba depends on several other factors. Among them, there are three key actors to watch:

- ▶ **TRADE UNIONS.** The Cuban trade unions and the CTC have served a primarily political function up to this point. They are a “conveyor belt” of information and messages, and their role is to represent the interests of the workers, but also of the managers and the state. As the Cuban economy shifts to a more mixed model, will the Cuban trade unions more aggressively represent the interests of workers (especially when those interests conflict with the interests of employers and/or the state)? If not, will other groups emerge to represent the rights and interests of workers?
- ▶ **REGULATORY AGENCIES.** Several ministries are charged with ensuring that Cuban employers, including both state enterprises and private companies, comply with existing labor regulations, including health and safety rules and work hours. Their integrity, diligence, and capacity in carrying out workplace inspections and ensuring compliance in a changing economy with new actors and new interests will be critical to the future of labor rights in Cuba.
- ▶ **LABOR COURTS.** Many workplace conflicts, including alleged violations of labor laws, are currently settled through Cuba's system of labor courts. In a changing economic system with greater incentives to increase productivity and efficiency, these courts may come to play an even more important role in assuring that labor regulations are upheld and labor rights protected. Will judges act independently of political and economic interests? Will the system prove impartial and honest? Is there sufficient capacity to ensure that cases are dealt with in a timely fashion?

*International observers should be conscious of the complexities and potential trade-offs inherent in the reform process and recognize the need to pay special attention to labor rights during this period of change and uncertainty.*

## **Conclusion**

The intention of this report has not been to cast doubt on the necessity or wisdom of Cuba's economic reforms. The financial and economic problems the country faces are undeniable and urgent, and the reforms proposed are moderate and sensible. The reforms will hopefully improve the lives of ordinary Cubans by increasing income and expanding opportunity. But they will also create new challenges and new risks in a number of areas, including the social safety net, inequality, education, health care, and labor rights. This report has focused on labor rights, but the implications of the reforms for social protections and social justice more broadly also warrants attention. As the reforms continue, they will lead to a number

of important changes in labor relations. Increased pressure for productivity in state-owned enterprises and the possibility of generating profits in private enterprise will create greater incentives for employers to exploit workers. As the government seeks to attract foreign investment and stimulate the economy, it may face pressure to liberalize labor markets and ease enforcement of labor regulations. Cuban trade unions, the Cuban government, and Cuban civil society will need to address these challenges themselves, but international observers should be conscious of the complexities and potential trade-offs inherent in the reform process and recognize the need to pay special attention to labor rights during this period of change and uncertainty.

## Endnotes

- 1 For a review of the Guidelines, see Philip Peters, *Cuba's New Entrepreneurs: Foundation of a New Private Sector*, <http://www.lexingtoninstitute.org/library/resources/documents/Cuba/ResearchProducts/CubaEntrepreneurs.pdf>. Updated statistics on the number of self-employed workers in Cuba are available via <http://cafeuerte.com/cuba/noticias-de-cuba/economia-y-negocios/2937-cuba-429458-cuentapropistas-registrados>; an August 2013 story in Cuban state media stated that only about 18 percent of workers in the private sector were employees, the other 82 percent were self-employed. The Guidelines are available on the website of *Granma*, Cuba's official newspaper, at <http://www.granma.cubaweb.cu/secciones/6to-congreso-pcc/Folleto%20Lineamientos%20VI%20Cong.pdf>.
- 2 The Cuban Convertible Peso (CUC) is pegged at 1 U.S. Dollar; the Cuban National Pesos (CUP) is valued at 1/26<sup>th</sup> of a CUC, although government ministries and farmers can obtain CUCs at a more favorable exchange rate. Cubans are paid in CUPs, and CUPs are used in purchasing heavily subsidized produce and other basic items. CUCs, which were originally limited to the tourist economy, are increasingly being used for a wide variety of consumer goods and services.
- 3 See Richard Feinberg, *Reaching Out: Cuba's New Economy and the International Response* (Brookings Institution, 2011), pp. 5-6.
- 4 The letter is available at <http://www.capitolhillcubans.com/2012/06/cuban-american-corporate-leaders-sign.html>.
- 5 Julia Sweig, "Cuba After Communism," *Foreign Affairs*, July / August 2013. Available at <http://www.cfr.org/cuba/cuba-after-communism/p30991>.
- 6 See Pavel Vidal Alejandro, Omar Everley Perez, Villanueva, eds, *Miradas a la economía cubana, el proceso de actualización* (Havana: Editorial Caminos, 2012); Feinberg, *Reaching Out*; Philip Peters, *A Viewers Guide to Cuba's Economic Reform* (Lexington Institute, 2012). For scholarly discussion of the reforms in the context of U.S.-Cuba relations, see *Debating U.S.-Cuba Relations: Shall We Play Ball?*, edited by Jorge I. Domínguez, Rafael Hernández, and Lorena G. Barberia (New York: Routledge, 2012).
- 7 One exception is the International Trade Union Confederation *Annual Survey of violations of Trade Union Rights*, <http://survey.ituc-csi.org/Cuba.html>; another is Eric Hershberg's analysis in the July/August edition of *NACLA* ("Cuba: Salvaging a Revolution"), available at <https://nacla.org/article/introduction-salvaging-revolution>. Other exceptions are two papers commissioned in 2011 by the Center for Latin American and Latino Studies at American University, Mayra Espina, "Los Servicios de Salud en Cuba. Aproximación de la Evolución de Sus Cambios," and Luisa Iñiguez Rojas, "La Política Social en Cuba: Resultados y Retos." A 1999 article in *Working USA* anticipated many of the issues discussed in this paper; see Jeff Faux and Marge Allen, "American Labor's Stake in Cuba's Future," *Working USA*, January-February 1999.
- 8 "Business in Cuba: A Risky Venture," *The Economist*, November 12, 2011. <http://www.economist.com/node/21538202>. More recently, Canadian businessman Saris Yacoubian was sentenced to nine years in prison on corruption charges.
- 9 One example is the high customs tax announced in 2012, which made it more difficult for Cuba's emerging self-employed sector to acquire imported goods. See Andrea Rodríguez, "Travelers staggered by Cuba's new customs taxes." *Associated Press*, September 4, 2012.
- 10 There are some scholarly articles on the contemporary CTC, although they tend to reflect ideological orientations. For highly sympathetic accounts, see Debra Evenson, "Workers in Cuba: Unions and Labor Relations," Institute of Employment Rights, Comparative Notes 7, November 2003 and the National Lawyers' Guild-sponsored *Report of the United States Delegation to the Seventh Bilateral Research Exchange Among Labor Lawyers, Trade Unionists, Neutrals and Scholars*, Santiago de Cuba, March 15 through 22, 2006 [http://www.nlginternational.org/report/Report\\_of\\_2006\\_NLG\\_Cuba\\_Delegation1.pdf](http://www.nlginternational.org/report/Report_of_2006_NLG_Cuba_Delegation1.pdf); for a very critical account, see Uguina, Jesus R. Mercader "Reality of Labor in Cuba and the Social Responsibility of Foreign Investors," Tirant lo Blanch - Monografias (2006).
- 11 This report is part of an ongoing effort by WOLA to help provide a more balanced view of the human rights situation on the island. U.S. policy has long taken for granted that Cuba's economic and political system is so deeply and fundamentally flawed that regime change is the only option. WOLA disagrees with this view. While we remain concerned about ongoing human rights problems in Cuba, especially limits on freedom of association and freedom of expression, we also believe it is important to recognize the advances that Cuba has made in the areas of social equality, education, and healthcare, and the strong sense of national independence and pride that is pervasive on the island. We are supportive of efforts to expand political and economic freedom in Cuba while maintaining to the greatest extent possible some of Cuba's achievements.
- 12 A recent story in the *Miami Herald* cites government data stating that about 18 percent of those licensed to work in the private sector are employees; that is, they are working for others rather than being self-employed. See "Are Self-Employed Cubans Really Budding Entrepreneurs?" *The Miami Herald*, August 11, 2013. <http://www.miamiherald.com/2013/08/11/3554750/are-self-employed-cubans-really.html>
- 13 For an overview of labor market flexibilization, including an analysis of its costs and benefits, see Kim Van Eyck, *Flexibilizing Employment: An Overview*, InFocus Programme on Boosting Employment through Small Enterprise Development, Job Creation and Enterprise Department, International Labour Office, Geneva, 2003.
- 14 For an overview of trade unionism and industrial relations in Europe, see Hyman, Richard (2005), *Trade unions and the politics of the European social model*. Economic and industrial democracy, 26 (1). pp. 9-40.
- 15 The 19 sectorial unions are: Agricultural and Forest, Chemical, Mining and Energy, Civilian Workers of the Armed Forces, Commercial, Gastronomical and Service, Communication, Construction, Cultural, Education and Sports, Food, Health, Hotel and Tourism, Light Industry, Merchant Marine, Port and Fishing, Metal and Electronics, Public Administration, Science Workers, Sugar Workers, Tobacco Workers, and Transportation.
- 16 Elio Delgado Legon, "Trade Unions in Cuba," in *The Havana Times*, July 1, 2013 <http://www.havanatimes.org/?p=95661>. This blog post, which amounts to a defense of the Cuban labor system and the CTC, was a response to an earlier, and more critical post, entitled "Will Cuban Workers ever Get Back their Right to Strike?," by Isbel Diaz Torres *Havana Times*, June 24, 2013, <http://www.havanatimes.org/?p=95318>.
- 17 On the CTC's advocacy on behalf of Cuban workers, see Evenson, *Workers in Cuba*, p. 9.
- 18 Speech by Jeannie Drake at the Cuba Solidarity Campaign/TUC Conference on November 6, 2004 at <http://www.tuc.org.uk/international-issues/countries/cuba/unions-cuba-introduction-speech-jeannie-drake>
- 19 *Resolution on permitting remittances and lifting travel restrictions on Cuba*. 2009. Submitted by the Metropolitan Washington Council (D.C.) Federation of Labor and amended by the Resolutions Committee. Available at [http://www.aflcio.org/content/download/6859/74154/file/2009res\\_43amend2.pdf](http://www.aflcio.org/content/download/6859/74154/file/2009res_43amend2.pdf).
- 20 See the October 2012 declaration of the CUTC, available at <http://www.cubasindical.org/docs/aquiestamosCUTC.pdf>. The dissident unions work closely with the International Group for Social Corporate Responsibility in Cuba (*El Grupo Internacional para la Responsabilidad Social Corporativa en Cuba*), a Miami, FL-based organization that maintains the website. <http://www.cubasindical.org/>

- 21 "Amnesty names 5 Cubans "prisoners of conscience," *Associated Press*, August 4, 2013, [http://www.nytimes.com/aponline/2013/08/04/world/americas/ap-cb-cuba-dissidents.html?partner=rss&emc=rss&\\_r=1&](http://www.nytimes.com/aponline/2013/08/04/world/americas/ap-cb-cuba-dissidents.html?partner=rss&emc=rss&_r=1&).
- 22 On the ILO's website: [http://www.ilo.org/dyn/normlex/en/f?p=1000:50001:0::NO:50001:P50001\\_COMPLAINT\\_FILE\\_ID:2897294](http://www.ilo.org/dyn/normlex/en/f?p=1000:50001:0::NO:50001:P50001_COMPLAINT_FILE_ID:2897294)
- 23 Some of the most extensive documentation and analysis of the USAID democracy promotion programs has been carried out by investigative journalist Tracey Eaton, through his weblog *Cuba Money Project* [www.cubamoneyproject.org](http://www.cubamoneyproject.org). Eaton's extensive interviews with Cuban dissidents are available at <http://vimeo.com/user3669746/videos>.
- 24 Mariela Castro, the daughter of Raúl Castro, who as the director for the Cuban National Center for Sex Education has become an effective advocate for LGBT rights in Cuba, is the best-known example. While her family connections obviously made it easier for her to advocate for change without fear, the fact that a member of the political elite led a long campaign to challenge deeply ingrained cultural norms and the political status quo argues strongly for the idea that heterodox ideas are widespread, including inside the government and the Communist Party.
- 25 A 2008 WOLA publication *Opting for Engagement* (by Geoff Thale, María Cristina Rosas, Joaquín Roy, Margaret Blunden, John Kirk, and Peter McKenna) explores how other countries have chosen to engage with the Cuban government while maintaining a commitment to human rights and democracy. The publication is available at [http://www.wola.org/publications/optiming\\_for\\_engagement](http://www.wola.org/publications/optiming_for_engagement).
- 26 The 1984 labor code has been revised several times. The current version is available on the *Gaceta Oficial* web site, <http://www.gacetaoficial.cu/html/codigodetrabajo.html>. For a critique of the draft labor code now under discussion, see Fernando Ravensberg, "Los sindicatos y el código," *BBC Mundo*, August 1, 2013, [http://www.bbc.co.uk/mundo/blogs/2013/08/130801\\_blog\\_cartas\\_desde\\_cuba\\_sindicatos.shtml](http://www.bbc.co.uk/mundo/blogs/2013/08/130801_blog_cartas_desde_cuba_sindicatos.shtml). There have also been several interesting and highly critical posts about the new labor code from Cuban bloggers, including Pedro Campos, "Debemos exigir que el nuevo código de trabajo sea sometido a referendo," *Kaos en la Red*, August 10, 2013, <http://kaosenlared.net/america-latina/item/65187-debemos-exigir-que-el-nuevo-c%C3%B3digo-del-trabajo-sea-sometido-a-referendo.html>; Felix Saute Mederos, "El conformismo y la mediocridad ante el nuevo código de trabajo," *Red Observatorio Critico*, August 13, 2013, <http://observatoriocriticodesdecuba.wordpress.com/2013/08/13/el-conformismo-y-la-mediocridad-ante-el-nuevo-codigo-del-trabajo/> and Rogelio Manuel Díaz Moreno, "Cuba: Yet Another Big Secret," *Havana Times*, July 19, 2013, <http://www.havanatimes.org/?p=96678>.
- 27 The new draft of the labor code is available online at <http://www.granma.cubaweb.cu/Anteproyecto-Ley-Codigo-TRabajo-Cuba-2013.pdf>
- 28 [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID:3081347](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3081347)
- 29 <http://survey.ituc-csi.org/Cuba.html>

## About WOLA

The Washington Office on Latin America (WOLA) is a nonprofit policy, research, and advocacy organization working to advance democracy, human rights, and social justice in Latin America and the Caribbean. Founded in 1974, WOLA plays a leading role in Washington policy debates about Latin America. WOLA facilitates dialogue between governmental and non-governmental actors, monitors the impact of policies and programs of governments and international organizations, and promotes alternatives through reporting, education, training, and advocacy.



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