RECENT REFORMS IN LABOR REGULATIONS IN CUBA

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I. Apparent reforms in Cuban labor regulations. Productivity and efficiency as the objective.

Debates of the Assembly during the 19th Congress of the Workers' Union in Cuba (CTC), have insisted on the need for a suitable labor response to the wage increase, materialized in more discipline, optimum utilization of the workday and high efficiency. The latest regulatory reforms introduce a concept more typical of the capitalist enterprise than a socialist model of labor relations. Productivity, competition, efficiency, human resources, etc... seem to have been finally incorporated to the language of Cuban labor relations. The increase of labor productivity and economic efficiency, together with a more rigorous labor discipline stand out today among the priorities in Cuba. Speaking before the plenary session of the eighth regular period of sessions of the National Peoples Assembly (Parliament), the Ministry of Economy and Planning highlighted the reductions of costs as an action that cannot be postponed.

Nevertheless, on the macroeconomic sector, the list of problems to be solved is imposing, like the existing anarchy with prices and wages, excessive bureaucracy, dual currency, the excessive number of workers in companies, which prevents an efficient labor organization and the increase in productivity. Finally, is absolutely necessary the release of blocked productive forces and the direction of the country towards a modern and competitive economy that can provide true worthy wages for workers, stimulate hard work and allow the awakening of relevant existing productive potentials. The road is long.

The notion of productivity is a key concept in the recent reforms of Cuban legislation. Productivity can simply be defined as the relationship between the amount of resources invested and the amount of goods or services produced. It is possible to identify the productivity of each of the factors used in production, and specifically that of the labor factor or human capital. Productivity constitutes the fundamental driving force of this new reality. It consists of the relationship between the actual production – the amount of goods and services produced – and the number of actors used to obtain it. Growth in productivity has a dual value. On the one hand, it is the basic source of improvement of actual wages and standard of living; on the other hand, it contributes to counter inflation forces by keeping labor costs low as actual wages go up[2] . The key to economic growth is precisely in labor productivity, because high productivity allows each employed individual to considerably increase the level of product obtained.

Now then, the yield of one hour of work can, in turn, depend on multiple factors other than capital contribution, such as the level of training, experience, the capacity of the workers to adapt to the requirements of the job, the way that the employer organizes the company, and also the effort or interest that the worker has in the performance of his duties. Cuban legislation has introduced various modifications that seek to reinforce productive results and fully affect main labor institutions.

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2 C.R. McCONNEL and S.L. BRUE, Economía laboral (Labor Economy), Madrid, McGraw-Hill, 1997, pages 458 and 460.

This bet favoring productivity and efficiency has materialized throughout the year in various resolutions that point to the mentioned objective. Thus, reforms in labor organization and wages (II), such as those in reference to work day and hourly schedules (III), or, finally, those that affect conditions in business entities exercising disciplinary power (IV) are oriented in that direction.

II. Reforms in Labor Organization and Wages

Resolution No. 26/06 – The General Regulation on Labor Organization states its objective in its Article 1, as the legal implementation of measures to achieve maximum labor effectiveness, with the application of Labor Organization "as an essential means to contribute to the sustained increase in productivity to raise the efficiency and efficacy of labor processes through the increase in production or services, reduction of unnecessary labor expenses and costs, as well as the improvement of quality". The provisions and principles contained in the standard are applicable in the employer entities, with adaptations derived from the type and nature of the labor activity involved. The Labor Organization in the labor entities integrates human resources with technology, labor resources and materials, through the set of methods and procedures that are applied to work with suitable levels of safety and health, ensure the quality of the product or services rendered and the compliance with the established ergonomic and environmental requirements.

It is not surprising that it is Cuban legislation the one that picks up on the concept of "human resources". The consolidation of this expression within the business language is certainly significant. And work is the only resource in which productive service cannot be disassociated from the actual person performing it at the very same time that it is performed. But, from a humanistic perspective, Mario Ackerman has questioned the expression entitling his known reflection on the matter with the assessment that "if they are human, they are not resources". Labor law is a law that focuses on people and not on objects. We, as human beings, are essentially different from assets. Therefore, it would be paradoxical for Cuban legislation to assume concepts as the one mentioned in such a conclusive manner.

An examination of the evolution of Cuban productivity in the last 10 years allows us to confirm that it is growing at an annual average rate lower than the median wage. Said reality has led to a major reform of the wage system. Under this concept, we should place Resolution No. 27/2006 General Regulation on Wage Organization, which establishes in its Article 2 that wage organization is directed to make payment for the quality and quantity of work performed, "so that efficient and higher quality labor would be better compensated. The wage level depends on the complexity and responsibility of the work performed, on the yield, time worked, conditions under which the work is performed and on its results, as well as other authorized additional payments". Article 4 establishes, in turn, the principles that govern wage policy in said Regulation, which are: a) compensate the work according to its quality and quantity; b) stimulate productivity, labor efficiency and contributions of the State; c) stimulate professional qualifications and excellence; d) guarantee that equal wage will correspond to equal labor.

The new economic and industrial reality imposes, on the other hand, a progressive approach to the productivity of companies and, at the same time, a re-launching of the variable component of compensation connected to a new management of labor performance. This binomial seeks to give less rigidity to compensatory policies by allowing a dynamic adaptation of wages to changing economic situations of companies, thus guaranteeing a more flexible management of human resources coherent with the new organizational and economic production needs. Article 28 of the Regulation is significant in this sense, the text of which says "the payment for performance has as its main goals to increase productivity, reduce expenses and costs, raise the equipment utilization index and production or service levels with the required quality, realize the profits set forth in the plan, comply with the contributions and increase workday utilization".

Article 29, in turn, establishes that: "the use in the performance-based payment method of piece work payment systems or systems connected to general or efficiency indicators or specific indicators and their amounts, constitute wages for all purposes". It is significant that in the compensation model linked to productivity, piece work wages plays a major role (Arts. 37 through 47). Payment-by-the-piece system entails paying workers a fixed amount per unit produced. Consequently, through this wage system, we evaluate individually or collectively the productive capacity of a worker or group of workers. This is an archaic formula for compensating performance which has been progressively losing weight with the application of new labor organization methods.

III. Modifications in the Workday and Hourly Schedule System

A line of action for achieving better economic results seems to be in the workday and hourly schedule system. The current Cuban Constitution in its Article 45, establishes the 8-hour workday, weekly time off and paid annual vacation, and declares that the State encourages the development of vacation facilities and plans. The latter aspect is the only innovation, since the aforementioned rights were recognized in the 1940 Constitution.

Resolution No. 187/2006, which approves the regulation on workday and work schedule replaced resolution No. 366 of October 8, 1979, which established work schedules for the Public Administration centers in the City of Havana; Resolution No. 380 of December 4, 1979, which established the work Schedule of a group of centers, listed in the Resolution; and Resolution No. 13 of October 23, 1991. The new Resolution is based on the need to favor " the strengthening of the work organization in work centers, specify the content and suitable utilization of the workday and work schedule, as well as to reiterate the responsibility of national entities, organizations, national agencies and administrations in the application and requirement of compliance for production or supply of services".

Said provision is rooted on the distinction between workday and work schedule. Workday is the number of hours that the worker is required to actually work, and so the quantitative aspect stands out here, which contrasts with the definition of schedule. This is confirmed in Article 1, which provides that "the workday is the time during which the worker fulfills his labor obligations of production and services, with a normal duration of eight hours per day on the average". The Labor Code, in turn, in its Article 67, establishes that the normal duration of the workday is eight hours per day and averages forty-four hours a week. We should bear in mind that although traditionally a longer workday is associated with higher productivity (because it could be associated with a group of employees that make a greater effort); the reality is that there is a negative relationship between the duration of the average workday and work productivity. In other words, when working more hours, there is a tendency to decrease utilization of each working hour. Consequently, an improvement in efficiency (productivity) can lead to reducing the workday, without a drop in production occurring.

The average workday on a weekly basis and in annual calculation implies the absence of necessary homogeneity for the time worked each week; and also allows for daily workdays of a different duration. The exceptions mentioned are the regular workday, reduced workday and irregular workday.

So, with regard to workday adaptations, as established by Article 68 of the Labor Code, in cyclic, seasonal or other activities whose characteristics are so determined, it is provided that the State Labor and Social Security Committee, having heard the criterion of the Workers' Union and based on the proposal introduced by the State Administration Agencies, the administrative offices of the local entities of the Peoples' Power, as well as the agencies of sociopolitical and mass organizations, in accordance with the respective labor union, can modify the duration of the workday through systems adjusted to the characteristics of said activities. In applying said rule, Article 3 of the Resolution that we are discussing, establishes that the heads of labor entities have the power to establish

workdays different from the normal workday, "subject to approval from the Ministry of Labor and Social Security, in seasonal and cyclic or other activities with characteristics that determine such difference and for tasks where the workers are exposed to conditions that may affect their health and safety".

A second exception refers to the establishment of reduced workdays. This second exception – provided by Article 69 of the Labor Code – covers workdays whose duration must be less than 8 hours, taking into account specific work or personal conditions. The labor situations and jobs in which reduced workdays are applied, are approved – just like for the reduced workday – by the MTSS (Ministry of Labor and Social Security) at the proposal of the OACE, administrative offices of the local agencies of the Peoples' Power, as well as the departments of political, social and mass organizations, in accordance with the respective labor union and having heard the opinion of the CTC. Reduced workdays can also be established for adolescents and workers who are partially disabled. Said Resolution extends the possibility to: "b) 15 or 16-year old teenagers, exceptionally authorized to work by the Municipal Labor Director; c) Persons with disability, subject to authorization from the Provincial Labor Director; d), workers who have partial disability, subject to prior medical opinion; e) working mothers during the leave of absence for somatological medical care and during breast-feeding, as established in the worker's maternity legislation"; f) other cases provided in the law. The amount of the wages or benefits, as the case may be for the aforementioned cases, is determined in the specific legislation.

Finally, we should find a place for the irregular workday provided by Article 70 of the Labor Code, which is less frequent. Its main characteristic is its indetermination in the work contract by the parties and it is established "when, due to the actual nature of the work or the complexity of its control, it does not allow for prior determination". Jobs and activities with irregular workdays are approved – just like the workday by the MTSS at the proposal of the OACE, the administrative offices of local agencies of the Peoples' Power, as well as departments, political, social or mass organizations according to the respective national labor union.

Workdays with duration different from the normal one are applied through a resolution or document from the head of the labor entity, or the person delegated by the latter, subject to a prior agreement with the respective labor union. When different workdays are authorized for labor activities, positions or jobs, they are recorded in the Collective Work Agreement.

If the workday determines the number of hours that the worker must provide actual service, the schedule sets the time to report to and leave work, highlighting the legal priority of the workday in the contractual obligation, since the wages compensate precisely the number of work hours. Thus we have the text extracted from Article 5 of said Resolution, which indicates that "the work schedule is an organizational measure to comply with the corresponding workday and provides the starting and ending times for the work, as well as the pauses for lunch or dinner, as the case may be".

In a labor entity several work schedules may exist for areas, departments or jobs consistent with the technical, technological or organizational requirements of production or services, as well as in those cases in which the different workdays are legally authorized for certain activities or workers.

According to Article 71 of the CT (Labor Code), the schedule is established in a centralized manner by the MTSS and the provincial agencies of the Peoples' Power. However, there are occasions when there may not be such centralization; in this case, the schedules will be approved by the head of the entity, subject to authorization from its superior administrative level with the participation of the labor union organization. Work schedules are recorded in the Collective Work Agreement.

The schedules for services are established to meet the needs of the population and workers, in general, so that the latter may access said services without affec-

ting compliance with the workday. Service schedules and the days when these services are provided, including the required Saturdays, are determined by the higher administrative level to which the labor entity in question reports, with the participation of the respective labor union organization.

In the entities and work centers in which direct customer service is provided to the population, such as businesses, units and service workshops, collection offices, and other similar activities, opening and closing hours of the establishment are set forth to provide services to the public. The management of these entities establishes a work schedule for the workers that participate in providing the service, which guarantees that said workers will report to work before the opening time and will complete work after the establishment closes to perform necessary internal tasks.

The control of the work times and displacement, the time for starting and leaving work, time off, immobility at the work station, reduction in the movements in such job so that the heavy load of downtimes is lightened, the production units or quantities per quantum of work time, the permanent presence of the time clock, speak in this regard, of a constant loss of creative and organizational faculty of the biological time of the worker in the time that he is at work. The ultimate objective sought by the scientific organization of the production process is the total elimination of the worker's idleness. This is the foundation of Article 10 of the Resolution by establishing that "the entity's management controls the time worked by the workers for payment of wages, determination of compliance with work standards and other rights and obligations established in the labor legislation. To this end, absence from work without legal excuse, leaving a work station during the workday without authorization, as well as infractions of the times for reporting and leaving work shall not be considered as time worked".

The entity's management may, by way of exception, authorize workers who request, during the workday, time off to submit applications at a particular entity providing services for the general population, after ascertaining that, due to the hours during which said service is provided, no other alternative is possible. The time off granted for this purpose shall not be paid wage time.

In the entities where work is legally suspended on Saturdays, the compensation remains at 70% of the worker's fixed wage with respect to the time when the normal workday is reduced. The rest of the work time is compensated in the usual manner.

IV. Management disciplinary power and internal disciplinary regulations

Three basic elements can be identified as part of the management power: an initial element, of management; an enduring element, security, which is the control activity that follows and accompanies directives; and, finally, verification that practically consists of the transitional attenuation of security. Disciplinary Law is close to Penal Law, since it stems from essential principles that are related to the latter and is justified for the same reasons that led to its creation.

The 1976 Constitution recognizes in its Article 45 that "each worker has the duty to fully perform the tasks that pertain to his job" and its Article 64 specifies that "it is the duty of each person to care for public and social property, abide by the labor discipline, respect the rights of others, observe the rules of socialist coexistence and fulfill civic and social duties". On the other hand, other precepts of the Constitution deal with the exercise and fulfillment of the duties of an individual (Article 9) and the performance of responsibilities that involve the working family.

The current legislation guarantees the effectiveness of these principles. Chapter VI of the Labor Code, enacted by Law No. 49 of December 28, 1984, summarizes the principles and elements previously stated and

are directed to strengthen work discipline, consistent with the production relations that prevail in Cuban society[3] . The disciplinary system is established in Decree Law No. 176, Labor Justice System, of August 15, 1997, which governs the content and preparation of disciplinary regulations. Said provision is of a general nature, since it provides the most frequent behaviors of violation of the internal labor order. However, each labor process requires the observance of certain rules of conduct significantly linked to its essence and nature. This circumstance requires a particular definition of disciplinary action in each labor entity[4] . Certainly, "the internal disciplinary regulations, with their special rules for a sector or even a certain entity, strengthen the discipline by providing typical situations that cannot be part of the general regulation provided by said Decree Law No. 176, because otherwise the list of behaviors where there is violation of labor discipline would be endless, and would lose its general nature, in addition to the fact that it would make difficult the addition, modification or elimination of any behavior"[5].

This is the basis or foundation of Resolution No. 188/2006 on internal disciplinary regulations. Its sixth provision establishes that "in addition to those violations established in Decree Law No. 176 of August 15, 1997, or, in the specific legislation, if any, the obligations and prohibitions contained in internal disciplinary regulations are considered violations of work discipline".

The internal disciplinary Regulations can be considered as a set of provisions of a different nature. Its provisions govern the conditions according to which the work is performed in an establishment and on the company's discipline. The Regulation is notoriously authoritarian, significantly reinforcing the responsibility by the worker to perform his obligations, without establishing at the same time the correlative guarantee regarding the company's obligation. It is the labor entity who unilaterally and freely sets the contents of the Regulation. This markedly authoritarian nature in its configuration allows us to speak of authentic regulations of servitude, since said regulations limit very substantially the worker's freedom.

According to the Internal Disciplinary Regulation, the authority with jurisdiction over the nature of the infraction, taking into account the concurrent circumstances, the importance of the facts, the damages caused, the personal conditions of the offender, his work history and his current conduct, may apply one of the disciplinary measures contained in Decree Law No. 176 of August 15, 1997 or, when applicable, in the specific legislation. The requirement of disciplinary labor responsibility, as established in Article 14 of Decree Law No. 176, is based on the evaluation of a set of necessary elements or aspects to, first of all, determine whether or not said responsibility must be required and, after the conduct is deemed punishable, apply the measure that best suits the subject and the characteristics and conditions of the particular case. Said regulations may provide that infractions deemed serious deserve the application of the most severe measures, which include: a) temporary transfer to another job of lower pay or qualification, or with different labor conditions, for a term of not less than six months or more than one year; b) transfer to another lower paying or lower qualification job, or with different labor conditions, with loss of the job that the worker had; and c) permanent severance from the entity.

Internal disciplinary regulations must be developed by the actual labor entities, taking into account their

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3 For an extensive study of this issue, we refer to C. GONZALEZ IZQUIERDO, Disciplina laboral (Labor Discipline), in AA.VV., Derecho Laboral (Labor Law). Parte especial (Special Part), Havana, Ed. Pueblo y Educación (Publishers), 1989, pages 173-176.

4 Understood as the state entities, agencies of the Central Administration of the State, national entities and the other budgeted entities; businesses, joint ventures and business groups; and any other entity, with legal capacity to establish labor relations. Each of those entities must prepare its Internal Disciplinary Regulation in accordance with conditions and requirements typical of the activity that it performs and as established for the activity or branch when applicable.

5 E. DE LA CARIDAD VIAMONTES, Derecho Laboral Cubano. Teoría y Legislación (Cuban Labor Law. Theory and Legislation), Havana, Editorial Félix Varela (Publishers), 2005, p. 315.

area of application. When a labor entity has several establishments, one single Regulation shall be prepared, which contemplates the characteristics and specificities of said establishments. Common responsibilities shall be established and, where required, the applicable specifications for each labor entity, which must be consistent with the technical, technological and organizational requirements of the work or service process. The approved Resolution establishes, in any case, its minimum requirements. The structure of the internal disciplinary regulations is as follows: a) objectives and area of application; b) workers' obligations and prohibitions common to all workers; c) specific obligations and prohibitions by areas and activities, when required; d) infractions deemed as serious; e) infractions deemed as very serious in those sectors where their application is authorized by law; f) management duties; g) authorities authorized to apply disciplinary measures; h) procedure for the assessment of disciplinary measures; and i) any other aspect deemed necessary, provided it does not violate the law.

In the resolution or document whereby the disciplinary measure is applied to a worker, the management is required to include the following on record, precisely and clearly: a) the facts that bring about the assessment of the disciplinary measure, entering the dates of its occurrence and the definition of the violation according to the Internal Disciplinary Regulation or Decree Law, or both; b) the evidence applied identify and ascertain said facts; c) evaluation of the importance, seriousness and consequences for production and services; d) evaluation of the worker's conduct and behavior before and after the facts; e) the disciplinary measure applied; f) the term that the worker has to exercise the right to challenge the disciplinary measure and the competent entity; g) date and place of the resolution and writing; and h) first and middle names, surnames, job title and signature of the person applying the disciplinary measure.

Among the common responsibilities of the workers to be incorporated in the internal disciplinary regulations, are the following: a) report to work in time; remain at their work station during the workday and not abandon it without prior knowledge and authorization from their immediate supervisor, utilizing the workday as much as possible; b) comply with the schedule established for meals and recess times; c) communicate to their immediate supervisor the reasons for not reporting to work within the term established at the entity; [....]; f) perform with quality and efficiency the tasks assigned, or the matters that are submitted to their consideration; g) carry out work orders, comply with the rules, directions and other general internal regulations, including standards and procedures in computer security, protection, labor safety and hygiene, using, as established, the personal protection equipment issued and those relative to fire prevention and extinguishment; [...] ; m) inform the Human Resources organizational unit, within seventy-two hours, the change of address and any other changes made by the service area of the Military Committee of his residence, submitting the Identity Card for update; n) observe rules of co-existence within the group, refraining from taking actions that interfere with other workers as they perform their obligations or that go against order and discipline at the work center.

It is difficult to comply with some of these requirements given the Cuban reality, such as, the punctuality requirement, for example. The Head of the Ministry of Labor and Social Security himself, as stated in the newspaper, Granma, official publication of the Cuban Communist Party, acknowledged the problems that continue to exist, such as transportation difficulties (the condition of buses forces some people to wait up to two hours to get on a bus completely full of people), providing lunch for employees and the actual schedules of nurseries for mothers.

Prohibitions common to all workers to be incorporated in the internal disciplinary regulations include: a) punching the card or signing the attendance record of another worker or any other alteration; b) accepting any type of personal benefit or compensation in exchange of information or solution of a matter submitted to his consideration because of the work that he performs; c) drinking alcoholic beverages during the workday or reporting to the work center in an ine-

briated state or under the influence of psychotropic substances; [...] e) failing to comply, without justification, with the technical and quality standards established for the job position; f) revealing to unauthorized persons, any information that he may have received, or knows because of his job position; g) performing, during work hours, activities unrelated to the tasks assigned to him in the performance of his duties within or outside the work center; [...]; k) irrationally making use of the entity's communication media in matters unrelated to the labor activity that he performs.

Deemed as serious infractions of discipline to be incorporated in the internal disciplinary regulations are the breach of obligations and prohibitions, common or specific, among others, the following: a) absence and failure to report on time to work repeatedly and without justification, mailing to heed alerts and warnings for such conducts; b) abandoning the work place without authorization from the immediate supervisor, and failing to take advantage of the workday; c) failure to comply with instructions from superiors; d) committing acts or incurring in conducts that can constitute crimes at the labor entity or during the performance of work; [...]; g) violations of the technological system; h) introducing in the computer files, images or other archives that contain pornography, banned games and forged documents or allow that someone else do so, and any other act in violation of computer security policies and standards.

Labor entities, in turn, that belong to the Education, Scientific Research and International Tourism sectors, as well as health care centers and the Railroad Transportation area, where the separation of sector or activity can be applied, shall define additionally in their internal disciplinary regulations those extremely serious violations that substantially affect the good name of the activity in question.

Finally, we should make reference to Resolution No. 200/2006, which approves labor and wage sanctions for workers when there are disciplinary violations that result in penal measures and subject to penal proceedings. Said Resolution establishes labor sanctions for workers hired for an undetermined time, with permanent residence, and for those hired for a definite term during the life of the contract, who commit acts, during work or outside the work place, that may constitute crimes; therefore, a criminal proceeding may ensue, independent from the labor process.

V. Conclusions

Finally, and as stated at the start of these pages, the last reforms in Cuban labor legislation establish significant connection lines with the economic policies. The labor regulations become a dependent and functional variable for the economic cycle, and therefore, it assumes the characteristic features of a true economic right. Productivity, efficiency, quality are features that emphasize the regulatory significance of reforms analyzed. It is also significant that the reforms affect main labor institutions: wages, the workday and disciplinary power.

The official efforts, at least those publicly disclosed, center on the improvement productivity, discipline and accounting. Nevertheless, this operating mode is clearly contradictory with the centralized economic model such as the Cuban model where the Government pays the wages of 80% of the population actually working. Labor reforms incorporated to the aforementioned context have not, in any way, affected the pre-existing model of collective rights. In addition, the fact that a significant core of the reform pertains to the disciplinary matter has reinforced controls over workers. So is inferred from the Cuban Vice President's own statements who, in seminar with directors of state companies, stated that "when a worker is used to receiving a wage without productive support or without using all his potential, an economic and ideological damage is caused" [6].

As we have said, the reform, clearly intended to introduce modifications in the area of individual relations, has not affected the deficient framework in which

6 As contained in the information of J.J. AZNAREZ, La economía paralela se dispara en Cuba (The parallel economy takes root in Cuba), El País, September 23, 2007, p. 10.

collective relations operate. In fact, the right of labor unions to constitute and join federations and confederations and the right of any federation or confederation to join international workers unions and, in particular, in Agreements No. 87 and 98 OIT is severely limited in Cuba. And it is evidenced by the continuous calls to attention made by qualified international entities and, in particular, a body such as the Labor Union Freedom Committee of the OIT, characterized by its impartiality and objectivity. In the different Complaints settled by said entity, the Cuban Government is urged to adopt "without delay" new provisions and measures to fully recognize in the legislation and in practice the workers right to form organizations that deem advisable at all levels (in particular, organizations independent of the current labor union structure), as well as the right of these organizations to freely organize their activities, or in which said Committee "urgently requests the Government that in the future it should respect the principle of no intervention or involvement of public authorities in the labor union activities provided in Article 3 of Agreement No. 87". Such statements highlight the clear weakness of this fundamental right, and the existence of meaningful external actions that may guide and support the actions of independent labor union cannot be used as argument to moderate the aforementioned conclusion, since measures that restrict freedom against labor unionists or raiding of meeting places, among others, are acts that clearly affect human dignity.

Added to this situation is a clearly distorted collective negotiation. This conclusion is evident from the fact that collective labor agreements are based on directives set by the Government and the ministries in charge and, in the case of companies with foreign capital, the collective agreement is executed between the employer agency and the company's management with the state labor union present. The above conclusion is reinforced by the actual Labor Union Freedom Committee of the OIT who has petitioned the Cuban Government to take measures to revise the legislation on collective negotiation matters, so that the collective negotiations in the work centers may be performed without the mandatory arbitration imposed by the law, and without participation by the authorities, higher level organizations or the Workers Central Union of Cuba.

In summary, the new provisions do not represent a qualitative advancement to the basic core of Cuban Labor Law. There are no innovations on possible substantive reforms in labor union matters; and nothing new on the free exercise of the right to strike, and other expressions of social conflict, or any changes to the distorted model of collective negotiation.

The book: "The Reality of Labor in Cuba and the Social Responsibility of Foreign Investors" can be purchased at: www.Tirant.com