

5-5-2010

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Unions Find Common Ground On May Day Around Opposition To Ruling Party's Labor-reform Plan

by LADB Staff

Category/Department: Mexico

Published: 2010-05-05

Labor organizations and opposition parties used the global commemoration of International Labor Day, or May Day, to express their opposition to the labor-reform proposal presented by the governing Partido Acción Nacional (PAN) and to vent their anger at what they perceive as President Felipe Calderón's generally anti-labor stance. Labor groups also took the opportunity to lash out at the president's decision last year to disband the electric utility Compañía Luz y Fuerza del Centro (LFC), but they also celebrated a change of heart by the high court (Suprema Corte de Justicia de la Nación, SCJN), which agreed to review whether the LFC dissolution violated the Constitution.

At the same time, unions expressed disappointment that the high court upheld the right of Grupo México to terminate the collective-bargaining contract with the miners union (Sindicato Nacional de Trabajadores Mineros, Metalúrgicos y Similares de la República Mexicana, SNTMMSRM). PAN's labor-reform proposal draws widespread opposition. In separate rallies at Mexico's City's Zócalo (main plaza), independent unions and labor organizations that have traditionally been affiliated with the former governing Partido Revolucionario Institucional (PRI) observed May Day by publicly denouncing reforms to the labor code (Ley Federal del Trabajo, LFT) proposed in Congress by the PAN.

Participants also criticized the Calderón administration's pro-business economic policies, which they say are a major reason why more Mexicans have fallen into poverty. While opposition to the PAN reforms provided common ground for the independent unions, led by the Unión Nacional de Trabajadores (UNT) and the PRI-affiliated Congreso del Trabajo (CT) and Confederación de Trabajadores de México (CTM), to conduct their protests, the decisions to hold separate events was evidence that Mexico's labor movement is not united. Still, the PAN reforms lack the support of any other political party in Congress and are not likely to be enacted, at least not in their current form. The PAN had lobbied for its proposal to be debated in the Chamber of Deputies before the end of the current legislative session. But Congress went into the summer break on April 29 without considering the PAN's reforms or any other plan to reform the LFT.

There is a push for Congress to schedule a special session, and some PAN legislators and administration officials are lobbying for the reforms to be part of the agenda. As Labor Secretary Javier Lozano put it, the reforms "cannot be delayed" because there has not been a comprehensive overhaul of labor policy in 40 years. Still, any special session is not likely to occur until after the July 4 gubernatorial and state legislative elections. Legislators emphasize that there is no rush to consider LFT reforms at this point. PRI Deputy David Hernández said his party plans to prepare an alternate proposal, but not before the fourth quarter of 2010. The center-left Partido de la Revolución Democrática (PRD) has pledged to advance its own proposal if the PAN initiative eventually comes to the floor of Congress. "We have a labor-reform proposal that we developed jointly with the UNT several years ago," said PRD president Jesús Ortega. "Perhaps we need to modify and update a

few things. But our thought is that our plan should be discussed along with the one offered by the PAN." PAN proposal has some merit Proponents of the PAN labor-reform plan point out that it would achieve five goals: generate employment opportunities, promote economic growth through investment and employment, expand workers' rights, encourage transparency and democracy in unions, and expedite and modernize Mexico's labor laws.

Some measures in the PAN proposal are worth considering, and it's possible that Congress might incorporate part of the governing party's plan in a future discussion of reforms. The PAN measure, which has the strong support of the country's top business and employer organizations, creates new protections for employees and promotes productivity. PAN legislators are promoting the initiative as one that would improve workplace conditions by enacting measures to prevent sexual harassment, prohibit companies from hiring children, and restrict outsourcing for tasks that could be done in house. Organizations like the Confederación Patronal de la República Mexicana (COPARMEX) view the reforms as a way to improve Mexico's competitive position as listed by the World Economic Forum (WEF). "At this point, our country ranks 115 among 133 countries in labor efficiency," said COPARMEX president Guillermo Beltrán Rochín. "That's an unmistakable sign that we urgently need a labor reform that would be beneficial to all of society."

Others pointed to the World Bank's Doing Business Index of 181 nations. The index ranked Mexico low in many categories, including hiring practices, the high cost of worker dismissals, and inflexible working hours. The initiative presented by the PAN delegation in the Chamber of Deputies has provisions that allow Mexico to strengthen its labor and productive sectors," said PAN Sen. Gustavo Madero Muñoz, who also discussed the proposal in the upper house. "This in turn would promote sustainable growth that would translate into better living conditions for Mexicans." Proposal greatly weakens power of unions But labor organizations oppose the PAN proposal because it makes no secret about its intent to water down the power of labor unions, especially a clause that would limit the time that workers could be on strike. "We are willing to transform the LFT in favor of the working class," PRI president Beatriz Paredes said at a May Day rally that included CT president Victor Flores and CTM leader Joaquín Gamboa Pascoe. "But we will not do so at the expense of union autonomy and the gains made by labor."

Some union leaders applaud the PAN's efforts to make the resources and the statutes of unions more transparent, but they contend that this proposal represents a cosmetic change to mask the initiative's true intention. "The [move toward transparency] is good and I endorse it," said Francisco Hernández Juárez, a UNT leader. "But it is a 'morsel' that tries to mask a generally regressive proposal." Hernández Juárez, who is also the leader of the Sindicato de Telefonistas de la República Mexicana (STRM), said the UNT plan, developed in conjunction with the PRD, proposes its own structural changes, such as eliminating the minimum-wage commission (Comisión Nacional de Salarios Mínimos, CNSM), redefining the functions of the Secretaría del Trabajo y Previsión Social (STPS), and eliminating the "toma de nota," a traditional policy allowing the government to set the criteria on whether a union can exist. "There is no reason why the government should have the power to authorize the existence of unions," said PRD president Jesús Ortega. "This is a decision that should be left entirely to the workers." The labor movement, particularly independent unions, opposes the CNSM because it limits workers' ability to demand higher pay.

Some experts like economist Rolando Cordera Campos argue that the PAN proposal falls short in other ways because it lacks provisions to promote employment. Cordera, a professor emeritus at the Universidad Nacional Autónoma de México (UNAM), also noted that provisions dealing with unions affect only a portion of the Mexican population. "Only 10% of Mexican workers belong to unions," Cordera said during a talk at the University of New Mexico (UNM) in Albuquerque on May 4. Experts say labor movement still weak, divided While opposition to the PAN proposals to reform the LFT has created a common enemy for labor, many experts believe the union movement in Mexico remains mostly ineffective. "The UNT is divided and weak, and the Congreso del Trabajo is limited by the fact that many of its leaders are old and by its outmoded statutes," Anselmo García, a consultant for the International Labor Organization (ILO) in Mexico, said in an interview with Milenio.com. García also noted that the Sindicato Mexicano de Electricistas (SME), representing workers at the disbanded LFC (SourceMex, October 21, 2009), until recently had a major influence on the national labor agenda but now "organizes spectacular protests that are little appreciated by the general public."

Despite organizing several marches and other protests in Mexico City, the SME has generally failed to gain the sympathy of the Mexican public, which generally agrees that the LFC was inefficient and costly. Cordera said eliminating the LFC was an important step, but he suggested the Calderón government made a mistake by not attempting to reach an agreement with the union before disbanding the LFC. There was evidence at the May Day rally in the Zócalo that the UNT does not speak with one voice. One leader, Agustín Rodríguez of the Sindicato Único Nacional de Trabajadores Universitarios (SUNTU), suggested that the labor movement would hold a national strike if there was an effort to implement the labor reforms proposed by the PAN. But others dismissed the possibility of a national strike. "We would not accomplish anything with such an action, and it would not be to our benefit to be discredited," said Hernández Juárez. "This is not the proper environment to call a national strike." Héctor de la Cueva, director of the Mexico City-based Centro de Investigación Laboral y Asesoría Sindical (CILAS), said labor organizations cannot move forward unless they rethink their strategies and discontinue old habits that include corruption and turf protection. "It is clear that the country's union movement arrives very weak, battered, and divided [on May Day]," said de la Cueva. "It has the enormous challenge of redefining its strategic role and renewing itself or dying out." And representatives of some unions agree. "This May 1, in addition to celebrating, we have to engage in an exercise of self-criticism and reconcile our interests," said Fernando Perfecto, secretary-general of the Asociación Sindical de Pilotos Aviadores (ASPA). "We also have to demonstrate that Mexico needs a business sector that is ethical and respectful of autonomous unions, because we all have to contribute." But the UNT's Hernández Juárez said the Calderón administration and the PAN's anti-union stance is partly to blame for the problems facing labor, as evidenced by the labor reforms that the pro-business governing party proposed in Congress this year.

High Court asked to intervene in key labor decisions Some administration decisions have ended up before the SCJN, including the contentious move to shut down the LFC in October 2009. The SME, led by Martín Esparza, had argued that the manner in which the administration shut down the facility violated workers' rights and was therefore unconstitutional. Esparza and other LFC members brought the matter to the high court in late 2009, but the SCJN declined to review the case at that time, saying that it did not qualify for a constitutional review (SourceMex, December 09, 2009). In late March, an SCJN panel (Segunda Sala) comprising five justices unanimously agreed to restore

jurisdiction in the case and to examine whether the Calderón government violated the Constitution. Justice Sergio Valls, who recommended the review to his fellow justices in the Segunda Sala, said it was important to examine the case's constitutionality. The court's decision was a small victory for the SME, although administration officials are confident that the Calderón government's decision will be upheld. In a statement, the Secretaría de Gobernación (SEGOB) said the administration would respect the court's final decision. "The federal government will respect the resolutions of the high court, which is charged with determining the constitutionality of any actions on the part of authorities."

The SME, in the meantime, is seeking to call attention to its situation by organizing a hunger strike in the Zócalo six months after the LFC closure. The action, which the union described as a "massive" hunger strike, initially drew 46 ex-employees of the LFC. The high court recently issued another decision on another important labor dispute in Mexico, the strike at the Cananea mine in Sonora state. In a ruling announced in late April, the Segunda Sala upheld a decision by a labor court in February that Grupo México had the right to terminate the collective-bargaining contract of workers, who had been on strike for more than 30 months (SourceMex, February 24, 2010). The strikers, members of Local 65 of the SNTMMSRM, had appealed to the court to determine whether the decision violated any statutes of the Mexican Constitution. The SCJN's Segunda Sala took very little time to determine that there was no constitutional violation.

Carlos de Buen, an attorney for the SNTMMSRM members, acknowledged that the SCJN's decision exhausts all legal means in Mexico for the strikers. The next step, he said, is to bring the case to the Costa Rica-based Inter-American Court of Human Rights (IACHR). There was some concern that the SCJN's decision would prompt the company to ask the government to send troops to retake the facility, but as of early May the Cananea mine was still in the hands of the strikers. Rumors were floating around that the strikers planned to blow up the mine, but union spokespersons denied this was the case.

In the meantime, SNTMMSRM leaders have called on Grupo México to form a dialogue committee so that the two sides can solve their differences at Cananea and two other sites peacefully. "We want to avoid a possible clash that we would all regret later," said a union spokesperson.

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