

CHAPTER 9

LABOR POLICY IN PUERTO RICO

THE HONORABLE RAFAEL HERNÁNDEZ COLÓN*

I am pleased to welcome you to Puerto Rico on the occasion of your Twenty-Eighth Annual Meeting, the second such meeting that the Academy has held in Puerto Rico. We here in Puerto Rico know of the good work performed by the Academy and its members on the mainland of the United States. We know of the Academy's scholarly research in the field of labor dispute settlement, of your excellent reports, and of your contributions to the development of a corps of competent and ethically inspired arbitrators.

The Academy's publications reflect the commitment of its arbitrator membership to the principles of rationality and justice in the field of labor relations. Since the close of the Second World War that commitment has resulted in the establishment of a network of industrial justice which, in operation and effect, compares favorably with the judicial system. No one can gainsay the contribution of your members to understanding, fairness, peace, and stability in the field of labor relations. Your continuing concern for those objectives is made manifest in the workshops included in the program for these meetings.

It is a matter of no little satisfaction for me to tell you that we in Puerto Rico share much of your vision of the ends and means of labor policy. Long before they were embodied in our Constitution in 1952, Puerto Rico was committed to guaranteeing and effectuating the basic rights of labor: minimum wages and hours, overtime regulations, prohibition of child labor, the right to equal pay for equal work, health and safety regulations, the right of employees to organize and bargain collectively through representatives of their own choosing, and the right to strike, to picket, and to engage in other legal concerted activities. To these consti-

* Governor, Commonwealth of Puerto Rico, San Juan, P.R.

tutional rights there have been added over the years a whole range of supplementary benefits and protections.

For these constitutional and statutory rights to be meaningful, Puerto Rico has had to create employment opportunities; only an expanding economy can produce the jobs needed by our growing labor force. Mass unemployment, always from two to three times what it is in the United States, has been a constant and pervasive problem for Puerto Rico—hence our Economic Development Administration and its job-creating activities, resulting in tens of thousands of new work opportunities.

We promote investment in economic development not for the sake of economic development itself, but for what it can do to promote the general welfare of our people. With the passage of time we have learned to give greater weight to human and ecological considerations. We want new industry and new jobs, but on fair terms and with due respect for the protection of our natural environment.

For decades now we have been concerned with the quality of labor relations as a test of commitment to our constitutional principle: "The dignity of the human being is inviolable." Union organization and collective bargaining are means for the achievement of human dignity in a two-fold sense, as a way of achieving fair sharing of the wealth the employees help to produce and as instruments of democratic participation in the decisions that affect their welfare.

We understand both strike action and the arbitration process to be integral elements of collective bargaining. Although strike action is recognized as a right, since we also recognize its costly consequences our labor policy has consistently favored conciliation and arbitration as the most effective instruments for resolving disputes and for reducing the incidence of work stoppages.

The Bureau of Conciliation and Arbitration of the Puerto Rican Department of Labor has a notable record in dealing with arbitrating disputes arising under collective agreements. During 1973-1974 the Bureau conciliated 182 of these disputes and rendered 305 awards.

As a measure of our commitment to arbitration, for three decades the Labor Relations Act of Puerto Rico, which is closely

modeled after the Wagner Act, has been treating as an unfair labor practice a refusal to implement a contractual agreement to arbitrate or to effectuate an award once it is rendered. To insure compliance with an award, our Labor Board is empowered to petition the Supreme Court directly for a decree ordering specific performance.

We have also experimented, in a limited way, with compulsory arbitration as a means of resolving bargaining impasses in a few government entities that provide services of fundamental public importance.

On the whole our labor policies have worked, although I would be less than candid if I failed to say that in recent years we have had serious problems, especially in three areas: in the public sector, in the merit system, and in the incidence of serious strikes. To begin to deal with the first problem, about a year and a half ago I appointed a Commission to Study Labor Relations in the Public Service. The commission was presided over by a member of this Academy, Dr. David M. Helfeld, and, I am pleased to acknowledge, was assisted with counsel and advice at a number of stages in its work by Academy members Arvid Anderson of New York, Charles Rehmus of Michigan, and Robert Stutz of Connecticut.

The Commission's report contains the following three recommendations, which, if accepted, will have far-reaching effects on Puerto Rico's labor policies: (1) extension of the right to organize and bargain collectively, from the public corporations where it is now recognized, to all employees in the public sector; (2) harmonization and coordination of the principle of collective bargaining with the merit principle in the public service; and (3) recognition of the right to strike after exhausting designated dispute-resolution procedures, except in cases of work stoppages that endanger the public health and safety.

Accompanying the Commission's report is a proposed statute to implement the report's recommendations. I have recently transmitted in a special message to the legislature of Puerto Rico the Commission's report and proposed statute, together with a new personnel law that is intended to reform and revitalize the merit system in the public service. I am confident that the legislature will fashion from these two proposals a new policy to deal with

the full range of personnel problems in the public service based on a wise balance of the principles of merit and collective bargaining.

I have left for last the problem that appears to be the most difficult and intractable of all, the increasing incidence of strikes in both the private and public sectors. The constantly accelerating resort to strike action in the public service is of special concern, since it now seems to be outpacing work stoppages in the private sector. If we have learned anything from experience in this field, it is that there are no easy or magical solutions. One has to analyze the constituent elements of the problem, utilize the lessons learned from accumulated experience, fashion remedies that seem to have the best chance of working well, and then, periodically evaluate the results.

It is in that spirit that the newly proposed collective bargaining law for the public sector has been drafted. Its overriding purpose is to establish a climate of rationality and fairness, which should tend to reduce resort to strike action. The same objective is sought through the creation of conciliation and fact-finding procedures, and through the encouragement of voluntary arbitration both for disputes arising under contracts and for interest-type impasses. Where the public health and safety is endangered, the proposed legislation authorizes resort to compulsory arbitration as one of a number of remedies that would be available to protect the public interest.

The efficacy of the policies and procedures that I have been describing depends in the final analysis on the attitudes, preparation, and understanding of the principal actors in the labor relations drama: management officials, labor leaders, and neutrals, the latter including quasijudicial personnel, investigators, attorneys, conciliators, fact-finders, and arbitrators. To state the problem is to recognize the need for a comprehensive and ongoing program of orientation, training, and dialogue.

My administration is committed to meet the challenge of such a program within the government and with the principal concerned leadership from all private sectors of our society. Indicative of my own concern are the meetings that I have been holding with representative leaders from the world of labor, industry, and commerce to lay the groundwork for a tripartite council on

social and labor policies. Those meetings have been directed toward the problem of how we might shape the idea of the Social and Economic Council of the Netherlands to meet Puerto Rican needs. Hopefully, out of a Puerto Rican council will come an enhanced sense of dialogue and recognition of the common good as a value that transcends the interests of particular groups and organizations.

From my brief remarks you can see that we in Puerto Rico are a community that has been dealing with our fair share of problems. Fortunately, we have learned how to deal with seemingly solutionless problems, to resolve them finally, wholly or in good part. I for one have no doubts that in their struggle to achieve a secure and just society, the people of Puerto Rico shall prevail.

When the Academy next meets in Puerto Rico, please invite me again. I should at that time be very pleased to give you an updated report on the state of labor relations on our island.